



Gavin Newsom, Governor

Board for Professional Engineers, Land Surveyors, and Geologists

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

Thursday, July 27, 2023, beginning at 9:00
a.m., and continuing Friday, July 28, 2023,
beginning at 9:00 a.m., if necessary

Department of Public Works, Hearing Room
825 East Third Street
San Bernardino, CA 92415

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BOARD MEETING

JULY 27-28, 2023

Department of Public Works
825 East Third Street
San Bernardino, CA 92415

BOARD MEMBERS

President Michael Hartley; Vice-President Christina Wong; Fel Amistad; Alireza Asgari; Rossana D'Antonio; Coby King; Guillermo Martinez; Betsy Mathieson; Frank Ruffino; Wilfredo Sanchez; and Fermin Villegas

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3. <u>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</u>	
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I. Roll Call to Establish a Quorum

II. Pledge of Allegiance

III. Public Comment for Items Not on the Agenda

IV. Legislation

- A. 2023 Legislative Calendar
- B. Discussion of Legislation for 2023 (**Possible Action**)
 - 1. Assembly Bill (AB) 883 - Business licenses: United States Department of Defense SkillBridge program.
 - 2. Senate Bill (SB) 372 - Department of Consumer Affairs: licensee and registrant records: name and gender changes.
 - 3. SB 447 – Go-Biz
 - 4. SB 544 - Bagley-Keene Open Meeting Act: teleconferencing.
 - 5. SB 802 - Licensing boards: disqualification from licensure: criminal conviction.
 - 6. SB 818 - Department of Consumer Affairs: terms of office: fingerprinting.

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11-4-22

DEADLINES

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

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4** Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 16** Martin Luther King, Jr. Day.
- Jan. 20** Last day to submit **bill requests** to the Office of Legislative Counsel.

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

- Feb. 17** Last day for bills to be **introduced** (J.R. 61(a)(1), J.R. 54(a)).
- Feb. 20** Presidents' Day.

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

- Mar. 30** **Spring Recess** begins upon adjournment (J.R. 51(a)(2)).
- Mar. 31** Cesar Chavez Day observed.

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

- Apr. 10** Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).
- Apr. 28** Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

MAY							
	S	M	T	W	TH	F	S
Wk. 4		1	2	3	4	5	6
Wk. 1	7	8	9	10	11	12	13
Wk. 2	14	15	16	17	18	19	20
Wk. 3	21	22	23	24	25	26	27
No Hrgs.	28	29	30	31			

- May 5** Last day for **policy committees** to hear and report to the Floor **nonfiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 12** Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).
- May 19** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).
Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).
- May 29** Memorial Day.
- May 30-June 2** **Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(7)).

*Holiday schedule subject to final approval by Rules Committee.

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11-4-22

JUNE							
	S	M	T	W	TH	F	S
No Hrgs.					1	2	3
Wk. 4	4	5	6	7	8	9	10
Wk. 1	11	12	13	14	15	16	17
Wk. 2	18	19	20	21	22	23	24
Wk. 3	25	26	27	28	29	30	

- June 2** Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).
- June 5** Committee meetings may resume (J.R. 61(a)(9)).
- June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

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

- July 4** Independence Day.
- July 14** Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).
- Summer Recess** begins upon adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

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

- Aug. 14** Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

SEPTEMBER							
	S	M	T	W	TH	F	S
Wk. 4						1	2
No Hrgs.	3	4	5	6	7	8	9
No Hrgs.	10	11	12	13	14	15	16
Interim Recess	17	18	19	20	21	22	23
Interim Recess	24	25	26	27	28	29	30

- Sept. 1** Last day for **fiscal committees** to meet and report bills (J.R. 61(a)(11)).
- Sept. 4** Labor Day.
- Sept. 5-14** **Floor session only.** No committees may meet for any purpose, except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(a)(12)).
- Sept. 8** Last day to **amend** on the Floor (J.R. 61(a)(13)).
- Sept. 14** Last day for each house to pass bills. (J.R. 61(a)(14)).
- Interim Recess** begins upon adjournment (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM RECESS

2023

Oct. 14 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in the Governor's possession on or after Sept. 14 (Art. IV, Sec. 10(b)(1)).

2024

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

Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

*Holiday schedule subject to final approval by Rules Committee.

AB 883 (Mathis, R-Porterville)
(Coauthors: Assembly Members Alanis, Davies, Dixon, and Garcia)
(Coauthors: Senators Niello and Seyarto)
Business licenses: United States Department of Defense SkillBridge program.

Status/History: 7/11/2023 – Passed Committees on Business, Professions & Economic Development and Military & Veterans Affairs; referred to Committee on Appropriations.

Location: 7/11/2023 – Senate Appropriations Committee

Introduced: 2/14/2023

Last Amended: 5/18/2023

Board Position: Watch (as of 6/8/2023)

Board Staff Analysis: 7/17/2023

Bill Summary: Existing law requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. Existing law authorizes a board to adopt regulations necessary to administer those provisions. This bill would additionally require a board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense SkillBridge program, as specified, and would provide that regulations to administer those provisions be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act.

Affected Laws: An act to amend Section 115.4 of the Business and Professions Code, relating to business licenses.

Staff Comment: This bill would expand the provisions of Business and Professions Code section to include active duty military who are enrolled in the U.S. Department of Defense SkillBridge program. It also clarifies that if the Board chooses to pursue regulations to administer these provisions, the regulations must be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act.

This bill was amended on May 18, 2023, to clarify that the provisions relating to the SkillBridge program will apply on and after July 1, 2024.

Board staff does not believe this expansion of applications to be expedited would have much impact on workload. We do not receive many applications from military members.

Staff Recommendation: No action needed at this time.

AMENDED IN ASSEMBLY MAY 18, 2023

AMENDED IN ASSEMBLY MARCH 23, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 883

Introduced by Assembly Member Mathis

(Coauthors: Assembly Members Alanis, Davies, Dixon, and Garcia)

(Coauthors: Senators Niello and Seyarto)

February 14, 2023

An act to amend Section 115.4 of the Business and Professions Code, relating to business licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 883, as amended, Mathis. Business licenses: United States Department of Defense SkillBridge program.

Existing law establishes the Department of Consumer Affairs under the direction of the Director of Consumer Affairs and sets forth its powers and duties relating to the administration of the various boards under its jurisdiction that license and regulate various professions and vocations.

Existing law requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. Existing law authorizes a board to adopt regulations necessary to administer those provisions.

This bill would additionally ~~require~~ *require, on and after July 1, 2024*, a board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence

to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense SkillBridge program, as specified, and would provide that regulations to administer those provisions be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act.

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

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

1 SECTION 1. Section 115.4 of the Business and Professions
2 Code is amended to read:

3 115.4. (a) Notwithstanding any other law, on and after July 1,
4 2016, a board within the department shall expedite, and may assist,
5 the initial licensure process for an applicant who supplies
6 satisfactory evidence to the board that the applicant ~~is an active~~
7 ~~duty member of a regular component of the Armed Forces of the~~
8 ~~United States enrolled in the United States Department of Defense~~
9 ~~SkillBridge program as authorized under Section 1143(e) of Title~~
10 ~~10 of the United States Code~~ or has served as an active duty
11 member of the Armed Forces of the United States and was
12 honorably discharged.

13 (b) *Notwithstanding any other law, on and after July 1, 2024,*
14 *a board within the department shall expedite, and may assist, the*
15 *initial licensure process for an applicant who supplies satisfactory*
16 *evidence to the board that the applicant is an active duty member*
17 *of a regular component of the Armed Forces of the United States*
18 *enrolled in the United States Department of Defense SkillBridge*
19 *program as authorized under Section 1143(e) of Title 10 of the*
20 *United States Code.*

21 (b)

22 (c) A board may adopt regulations necessary to administer this
23 section in accordance with the provisions of Chapter 3.5
24 (commencing with Section 11340) of Part 1 of Division 3 of Title
25 2 of the Government Code.

O

SB 372 (Menjivar, D-San Fernando Valley/Burbank)
(Coauthors: Senators Cortese (D-San Jose) and Wiener (D-San Francisco))
(Coauthors: Assembly Members Haney (D-San Francisco), Lee (D-San Jose),
Pellerin (D-Santa Cruz), and Wallis (R-Palm Springs))

**Department of Consumer Affairs: licensee and registrant records:
name and gender changes.**

Status/History: 6/28/2023 – Read second time and amended; re-referred to Committee on Appropriations.

Location: 6/28/2023 – Senate Committee on Appropriations

Introduced: 2/9/2023

Last Amended: 6/28/2023

Board Position: Watch (as of 6/8/2023)

Board Staff Analysis: 7/17/2023

Bill Summary: This bill would require a board to update a licensee’s records, including records contained within an online verification system, to include the licensee’s updated legal name or gender if the board receives government-issued documentation, as described, from the licensee demonstrating that the licensee’s legal name or gender has been changed. The bill would also require the board to remove the licensee’s former name or gender from its online verification system and treat this information as confidential. The board would be required to establish a process to allow a person to request and obtain this information, as prescribed. Additionally, the bill would require the board, if requested, to reissue specified documents issued to the licensee with their updated legal name or gender.

Affected Laws: An act to add Section 27.5 to the Business and Professions Code, relating to professions and vocations.

Staff Comment: This bill is co-sponsored by the California Association of Marriage and Family Therapists, California State Association of Psychiatrists, California Association of Social Rehabilitation Agencies, California Council of Community Behavioral Health Agencies, California Psychological Association, California Association for Licensed Professional Clinical Counselors, National Association of Social Workers – CA Chapter, and Psychiatric Physicians Alliance of California. According to the Author, “Deadnaming occurs when someone intentionally or unintentionally refers to a trans or non-binary person by the name they previously used. This practice can both negatively impact the mental health as well as the physical safety of all licensees under DCA who are identified by their deadname online. When transgender or non-binary people transition or come out, they may choose a new name to affirm their identity. Research has shown that referring to someone using their chosen name can reduce depressive symptoms and even suicidal ideation and behavior for transgender people. It is imperative that the state take every step to uplift and protect trans and non-binary Californians. DCA can help protect its over 3.4 million licensed professionals by ensuring that trans and non-binary licensees who have legally changed their names have their identities reflected on their online system.”

At its April 13, 2023, meeting, the Board voted to take a position of “Watch” on the bill and also directed that a letter be sent to the author expressing the Board’s concerns that the final language strike an appropriate balance between the legitimate need to preserve the confidentiality of gender and name changes with the public’s legitimate need for access to disciplinary information under the former name and gender.

SB 372 was amended on April 20, 2023, to address concerns that had been raised regarding the use of the term “complaint” rather than “enforcement action.” Staff does not believe these amendments sufficiently address the Board’s concerns to warrant a change in the Board’s position.

The bill was amended on June 20, 2023, and again on June 28, 2023. The June 20 amendments were based on suggestions provided by the Department of Consumer Affairs’ Legal Affairs Office (DCA-Legal) and various licensing boards due to concerns with the terminology originally used and the ability of boards to comply with the requirements specified in the bill while still ensuring public protection. In addition to clarifying the terminology to better align with board documents and processes, language has been added to indicate that if an individual was previously subject to an enforcement action, the board is required to post online a statement directing the public to contact the board for more information rather than posting the records online. This amendment relieves the boards from having to determine how to reflect the change of name in historical legal documents. Additionally, language has been added to clarify what official court documents the individual must submit as proof of the reason for the name change. The June 28 amendments clarified that the requirement to post the statement applies to enforcement actions taken under the individual’s previous name. Staff believes these amendments create a workable method for preserving the confidentiality of gender and name changes while still providing a way for the public to obtain information about enforcement actions. Both the June 20 and 28 versions of the bill are included.

Staff Recommendation: Staff recommends the Board take a position of “Watch” on SB 372, as amended June 28, 2023.

AMENDED IN ASSEMBLY JUNE 12, 2023

AMENDED IN SENATE APRIL 20, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 372

Introduced by Senator Menjivar
(Coauthors: Senators Cortese and Wiener)
(Coauthors: Assembly Members Lee, Pellerin, and Wallis)

February 9, 2023

An act to add Section 27.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 372, as amended, Menjivar. Department of Consumer Affairs: licensee and registrant records: name and gender changes.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law defines "board" for purposes of the Business and Professions Code to include bureau, commission, committee, department, division, examining committee, program, and agency, unless otherwise expressly provided.

This bill would require a board to update a licensee's or registrant's records, ~~including records contained within an online license verification system, to include the licensee's or registrant's updated legal name or gender~~ *license by replacing references to the former name or gender on the license or registration, as specified*, if the board receives ~~government-issued~~ documentation, as described, from the licensee or

registrant demonstrating that the licensee or registrant’s legal name or gender has been changed. ~~The~~ *If the board operates an online license verification system, the bill would require the board to ~~remove~~ replace references to the licensee’s or registrant’s former name or gender from its online license verification system and treat this information as confidential.* ~~The~~ *with the individual’s current name or gender, as applicable, on the publicly viewable information displayed on the internet. The bill would prohibit a board from publishing information relating to the licensee’s or registrant’s former name or gender online. For specified licensees or registrants, the board would be required to establish a process to allow a person to request and obtain a licensee’s or registrant’s current name or prohibited from posting enforcement action record linked to a former name, records online, but would be required to direct the public to contact the board, as prescribed. The bill would require the board, if requested by a licensee or registrant, to reissue ~~specified documents~~ any license created by the board and conferred upon, or issued to, upon the licensee or registrant with their updated legal name or gender.* ~~registrant.~~ The bill would prohibit a board from charging a higher fee for reissuing a ~~document~~ license with a ~~corrected~~ or an updated legal name or gender than the fee it charges for reissuing a ~~document~~ license with other ~~corrected~~ or updated information.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 27.5 is added to the Business and
- 2 Professions Code, to read:
- 3 27.5. (a) (1) Notwithstanding any other law, if a board receives
- 4 government-issued documentation, as described in subdivision
- 5 (b), from a licensee or registrant demonstrating that the licensee’s
- 6 or registrant’s legal name or gender has been changed, the ~~board~~
- 7 *board, upon request by the licensee or registrant, shall update*

1 ~~their records, including any records contained within an online~~
2 ~~license verification system, to include the updated legal name or~~
3 ~~gender. *the individual's license or registration by replacing*~~
4 ~~*references to the former name or gender on the license or*~~
5 ~~*registration, as applicable, with references to the current name*~~
6 ~~*or gender.*~~

7 (2) (A) If the board operates an online license verification
8 system, ~~it shall remove the licensee's or registrant's former name~~
9 ~~upon receipt of government-issued documentation, as described~~
10 ~~in subdivision (b). *upon request by a licensee or registrant whose*~~
11 ~~*name or gender was updated pursuant to paragraph (1), the board*~~
12 ~~*shall replace references to the licensee's or registrant's former*~~
13 ~~*name or gender with the individual's current name or gender, as*~~
14 ~~*applicable, on the publicly viewable information displayed on the*~~
15 ~~*internet about the licensee or registrant. The licensee's or*~~
16 ~~*registrant's former name and gender shall be deemed confidential.*~~
17 ~~*or gender, as applicable, shall not be published online.*~~

18 ~~(B) The board shall establish a process for providing a licensee's~~
19 ~~or registrant's current name or enforcement action record linked~~
20 ~~to a former name upon receipt of a request that is related to an~~
21 ~~enforcement action against the licensee or registrant or a search~~
22 ~~of a licensee by a previous name. The process shall ensure that the~~
23 ~~request is completed within 10 business days. This subparagraph~~
24 ~~shall be implemented in compliance with the California Public~~
25 ~~Records Act (Division 10 (commencing with Section 7920.000)~~
26 ~~of Title 1 of the Government Code).~~

27 ~~(C) In establishing a process to provide a licensee's or~~
28 ~~registrant's former name and gender, the board shall consider~~
29 ~~respect for the licensee's or registrant's privacy and safety.~~

30 ~~(B) Notwithstanding any other law, for licensees or registrants~~
31 ~~subject to subparagraph (A) who were previously subject to an~~
32 ~~enforcement action, the board shall not post enforcement records~~
33 ~~online, but shall instead post online a statement directing the public~~
34 ~~to contact the board for more information about the licensee's or~~
35 ~~registrant's prior enforcement action. The board shall ensure~~
36 ~~compliance with the California Public Records Act (Division 10~~
37 ~~(commencing with Section 7920.000) of Title 1 of the Government~~
38 ~~Code) in implementing this section, including, but not limited to,~~
39 ~~responding to the request within 10 days from receipt of the~~
40 ~~request, as specified in Section 7522.535 of the Government Code.~~

1 (3) If requested by the licensee or registrant, the board shall
 2 ~~reissue any documents conferred upon the licensee or registrant~~
 3 ~~with the licensee's or registrant's updated legal name or gender.~~
 4 *license created by the board and conferred upon the licensee or*
 5 *registrant by the board.* A board shall not charge a higher fee for
 6 reissuing a document with ~~a corrected or an~~ updated legal name
 7 or gender than the fee it *regularly* charges for reissuing a document
 8 with other ~~corrected or~~ updated information.

9 (b) (1) ~~The documentation of a licensee or registrant identified~~
 10 *in either of the following is required to demonstrate a legal name*
 11 *change of a licensee or registrant:*

12 (A) *A certified court order issued pursuant to a proceeding*
 13 *authorized by subdivision (b) of Section 1277 of the Code of Civil*
 14 *Procedure and a copy of the certificate issued under the Secretary*
 15 *of State's Safe at Home program authorized by Chapter 3.1*
 16 *(commencing with Section 6205) of Division 7 of Title 1 of the*
 17 *Government Code reflecting the licensee's or registrant's updated*
 18 *name.*

19 (B) *A certified court order issued pursuant to a proceeding*
 20 *authorized by Section 1277.5 of the Code of Civil Procedure or*
 21 *Article 7 (commencing with Section 103425) of Chapter 11 of Part*
 22 *1 of Division 102 of the Health and Safety Code reflecting the*
 23 *licensee's or registrant's updated name.*

24 (2) ~~Any of the following documents is sufficient to demonstrate~~
 25 ~~a legal name or gender change includes, but is not limited to, any~~
 26 ~~of the following:~~ *of a licensee or registrant:*

27 ~~(1)~~

28 (A) State-issued driver's license or identification card.

29 ~~(2)~~

30 (B) Birth certificate.

31 ~~(3)~~

32 (C) Passport.

33 ~~(4)~~

34 (D) Social security card.

35 ~~(5)~~

36 (E) Court order indicating ~~a name change or a~~ gender change.

37 ~~(e) This section does not require a board to modify records that~~
 38 ~~the licensee or registrant has not requested for modification or~~
 39 ~~reissuance.~~

1 SEC. 2. The Legislature finds and declares that Section 1 of
2 this act, which adds Section 27.5 to the Business and Professions
3 Code, imposes a limitation on the public’s right of access to the
4 meetings of public bodies or the writings of public officials and
5 agencies within the meaning of Section 3 of Article I of the
6 California Constitution. Pursuant to that constitutional provision,
7 the Legislature makes the following findings to demonstrate the
8 interest protected by this limitation and the need for protecting
9 that interest:

10 In order to protect the privacy rights and safety of individuals,
11 it is necessary that this act limit the public’s right of access to that
12 information.

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AMENDED IN ASSEMBLY JUNE 28, 2023

AMENDED IN ASSEMBLY JUNE 12, 2023

AMENDED IN SENATE APRIL 20, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 372

**Introduced by Senator Menjivar
(Coauthors: Senators Cortese and Wiener)**

(Coauthors: Assembly Members Haney, Lee, Pellerin, and Wallis)

February 9, 2023

An act to add Section 27.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 372, as amended, Menjivar. Department of Consumer Affairs: licensee and registrant records: name and gender changes.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs. Existing law establishes various boards within the department for the licensure, regulation, and discipline of various professions and vocations. Existing law defines "board" for purposes of the Business and Professions Code to include bureau, commission, committee, department, division, examining committee, program, and agency, unless otherwise expressly provided.

This bill would require a board to update a licensee's or registrant's license by replacing references to the former name or gender on the license or registration, as specified, if the board receives documentation, as described, from the licensee or registrant demonstrating that the licensee or registrant's legal name or gender has been changed. If the

board operates an online license verification system, the bill would require the board to replace references to the licensee's or registrant's former name or with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet. The bill would prohibit a board from publishing information relating to the licensee's or registrant's former name or gender online. *Instead, the bill would require the board to post an online statement directing the public to contact the board for more information.* For specified licensees or registrants, the board would be prohibited from posting enforcement records online, but would be required to ~~direct~~ *post an online statement stating that the individual was previously subject to an enforcement action and directing the public to contact the board, as prescribed.* *The bill would provide that all records related to a request to update an individual's license or registration under these provisions are confidential and not subject to public inspection or disclosure.* The bill would require the board, if requested by a licensee or registrant, to reissue any license created by the board and conferred upon the licensee or registrant. The bill would prohibit a board from charging a higher fee for reissuing a license with an updated legal name or gender than the fee it charges for reissuing a license with other updated information.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 27.5 is added to the Business and
- 2 Professions Code, to read:
- 3 27.5. (a) (1) Notwithstanding any other law, if a board receives
- 4 government-issued documentation, as described in subdivision
- 5 (b), from a licensee or registrant demonstrating that the licensee's
- 6 or registrant's legal name or gender has been changed, the board,
- 7 upon request by the licensee or registrant, shall update the
- 8 individual's license or registration by replacing references to the

1 former name or gender on the license or registration, as applicable,
2 with references to the current name or gender.

3 (2) (A) If the board operates an online license verification
4 system, upon request by a licensee or registrant whose name or
5 gender was updated pursuant to paragraph (1), the board shall
6 replace references to the licensee's or registrant's former name or
7 gender with the individual's current name or gender, as applicable,
8 on the publicly viewable information displayed on the internet
9 about the licensee or registrant. The licensee's or registrant's
10 former name or gender, as applicable, shall not be published online.

11 (B) Notwithstanding any other law, for licensees or registrants
12 subject to subparagraph (A) who were previously subject to an
13 enforcement ~~action~~, *action referencing the individual's former*
14 *name or gender, as applicable*, the board shall not post enforcement
15 records online, but shall instead post online a statement *stating*
16 *that the individual previously was subject to enforcement action*
17 *and directing the public to contact the board for more information*
18 *about the licensee's or registrant's prior enforcement action.* The
19 board shall ensure compliance with the California Public Records
20 Act (Division 10 (commencing with Section 7920.000) of Title 1
21 of the Government Code) in implementing this section, including,
22 but not limited to, responding to ~~the a~~ *a request for records* within
23 10 days from receipt of the request, as specified in Section
24 ~~7522.535~~ 7922.535 of the Government Code.

25 (C) *If a public search of the online license verification system*
26 *is performed using a licensee's or registrant's former name that*
27 *was replaced pursuant to subparagraph (A), the board shall post*
28 *an online statement directing the public to contact the board for*
29 *more information about the licensee or registrant.*

30 (3) If requested by the licensee or registrant, the board shall
31 reissue *the* license created by the board and conferred upon the
32 licensee or registrant by the board. A board shall not charge a
33 higher fee for reissuing a document with an updated legal name
34 or gender than the fee it regularly charges for reissuing a document
35 with other updated information.

36 (b) (1) The documentation identified in either of the following
37 is required to demonstrate a legal name change of a licensee or
38 registrant:

39 (A) A certified court order issued pursuant to a proceeding
40 authorized by subdivision (b) of Section 1277 of the Code of Civil

1 Procedure and a copy of the certificate issued under the Secretary
 2 of State's Safe at Home program authorized by Chapter 3.1
 3 (commencing with Section 6205) of Division 7 of Title 1 of the
 4 Government Code reflecting the licensee's or registrant's updated
 5 name.

6 (B) A certified court order issued pursuant to a proceeding
 7 authorized by Section 1277.5 of the Code of Civil Procedure or
 8 Article 7 (commencing with Section 103425) of Chapter 11 of
 9 Part 1 of Division 102 of the Health and Safety Code reflecting
 10 the licensee's or registrant's updated name.

11 (2) Any of the following documents is sufficient to demonstrate
 12 a gender change of a licensee or registrant:

13 (A) State-issued driver's license or identification card.

14 (B) Birth certificate.

15 (C) Passport.

16 (D) Social security card.

17 (E) Court order indicating a gender ~~change~~: *change from a court*
 18 *of this state, another state, the District of Columbia, any territory*
 19 *of the United States, or any foreign court.*

20 *(c) Notwithstanding any other law, all records related to a*
 21 *request by a licensee or registrant for a board to update the*
 22 *individual's license or registration pursuant to this section,*
 23 *including, but not limited to, all documentation described in*
 24 *subdivision (b), are confidential and not subject to public*
 25 *inspection or disclosure.*

26 SEC. 2. The Legislature finds and declares that Section 1 of
 27 this act, which adds Section 27.5 to the Business and Professions
 28 Code, imposes a limitation on the public's right of access to the
 29 meetings of public bodies or the writings of public officials and
 30 agencies within the meaning of Section 3 of Article I of the
 31 California Constitution. Pursuant to that constitutional provision,
 32 the Legislature makes the following findings to demonstrate the
 33 interest protected by this limitation and the need for protecting
 34 that interest:

35 In order to protect the privacy rights and safety of individuals,
 36 it is necessary that this act limit the public's right of access to that
 37 information.

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SB 447 (Atkins, D-San Diego)

GO-Biz.

Status/History: 7/13/2023 – Read second time and amended; re-referred to Committee on Appropriations.

Location: 7/13/2023 – Assembly Committee on Appropriations

Introduced: 2/13/2023

Last Amended: 7/13/2023

Board Position: No position

Board Staff Analysis: 7/17/2023

Bill Summary: As it pertains to this Board, this bill would repeal Section 11139.8 of the Government Code, which is the section of law that prohibits a state agency and the Legislature from requiring any of its employees, officers, or members to travel to, or from approving a request for state-funded or state-sponsored travel to, any state that has enacted a law that voids or repeals, or that has the effect of voiding or repealing, existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression or that has enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, as specified. This bill would also establish the Building and Reinforcing Inclusive, Diverse, Gender-Supportive Equity Project (BRIDGE Project) to promote social equity, civil rights, and antidiscrimination through marketing and advertising campaigns.

Affected Laws: An act to amend Section 12096.3 of, to add Article 16 (commencing with Section 12100.170) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, and to repeal Section 11139.8 of, the Government Code, and to amend Section 4646 of the Welfare and Institutions Code, relating to economic development.

Staff Comment: This bill is being presented to the Board as informational only since it would repeal the provision of law that bans the Board from traveling to states on the list maintained by the Office of the Attorney General (as of June 16, 2023, there are now 26 states on the list). The Board is on record as expressing its concerns with its inability to attend meetings relating to the development of the licensing examinations the Board uses simply because of the state in which the meeting is held. The Board believes that attending such meetings, no matter where they may be held, is critical to the Board's mission of protecting the public by ensuring that the licensing examinations it uses are appropriate for California.

Staff Recommendation: This bill is presented for information only; no action is needed.

AMENDED IN ASSEMBLY JULY 13, 2023

AMENDED IN ASSEMBLY JULY 3, 2023

AMENDED IN SENATE MARCH 29, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 447

Introduced by Senator Atkins

February 13, 2023

An act to amend Section 12096.3 of, to add Article 16 (commencing with Section 12100.170) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, and to repeal Section 11139.8 of, the Government Code, and to amend Section 4646 of the Welfare and Institutions Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 447, as amended, Atkins. GO-Biz.

(1) Existing law establishes the Governor's Office of Business and Economic Development (GO-Biz) 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. In this regard, existing law authorizes GO-Biz to make recommendations to the Governor and the Legislature on new state policies and to provide data, information, and assistance, as specified.

This bill would further authorize GO-Biz to establish the Building and Reinforcing Inclusive, Diverse, Gender-Supportive Equity Project (BRIDGE Project) to promote social equity, civil rights, and antidiscrimination through marketing and advertising campaigns. The bill would establish the BRIDGE Project Fund and would make the

money available to the office upon appropriation by the Legislature for the purpose of implementing the project, and would require the office to establish a process to receive donations into the fund. The bill would authorize the office to contract with a private, nonprofit agency, as specified, and to use the services of volunteer advertising agencies and donated media to conduct marketing activities. The bill would require the office to convene an advisory committee of no more than 10 members, as defined, to advise the office on BRIDGE Project media campaigns, as specified.

The bill would provide that any media campaign funded pursuant to this project may, among other things, be on a national scale and, to the extent possible, may target audiences in a state or states, or a media market that includes a state or states that have enacted a law that voids or repeals, or has the effect of voiding or repealing, an existing state or local protection against discrimination on the basis of sexual orientation, gender identity, or gender expression, or have enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, including any law that creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression. The bill would also add a provision specifying that nothing in the provisions regarding GO-Biz shall be interpreted to require a state employee or officer to travel to a state or states that have enacted a law that would discriminate on the basis of sex, sexual orientation, gender identity, or gender expression, or that has the effect of prohibiting conduct or activities otherwise protected under the laws of this state.

(2) Existing law prohibits a state agency and the Legislature from requiring any of its employees, officers, or members to travel to, or from approving a request for state-funded or state-sponsored travel to, any state that has enacted a law that voids or repeals, or that has the effect of voiding or repealing, existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression or that has enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, as specified.

This bill would repeal those provisions prohibiting a state agency and the Legislature from requiring travel to specified states and would make a conforming change.

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 11139.8 of the Government Code is
2 repealed.
- 3 SEC. 2. Section 12096.3 of the Government Code is amended
4 to read:
- 5 12096.3. The office shall serve the Governor as the lead entity
6 for economic strategy and the marketing of California on issues
7 relating to business development, private sector investment, and
8 economic growth. In this capacity, the office may:
- 9 (a) Recommend to the Governor and the Legislature new state
10 policies, programs, and actions, or amendments to existing
11 programs, advance statewide economic goals and respond to
12 emerging economic problems and opportunities, and ensure that
13 all state policies and programs conform to the adopted state
14 economic and business development goals.
- 15 (b) Coordinate the development of policies and criteria to ensure
16 that federal grants administered or directly expended by state
17 government advance statewide economic goals and objectives.
- 18 (c) Market the business and investment opportunities available
19 in California by working in partnership with local, regional, federal,
20 and other state public and private institutions to encourage business
21 development and investment in the state.
- 22 (d) Provide, including, but not limited to, all of the following:
- 23 (1) Economic and demographic data.
- 24 (2) Financial information to help link businesses with state and
25 local public and private programs.
- 26 (3) Workforce information, including, but not limited to, labor
27 availability, training, and education programs.
- 28 (4) Transportation and infrastructure information.
- 29 (5) Assistance in obtaining state and local permits.
- 30 (6) Information on tax credits and other incentives.
- 31 (7) Permitting, siting, and other regulatory information pertinent
32 to business operations in the state.
- 33 (e) Establish a well-advertised telephone number, an interactive
34 internet website, and an administrative structure that effectively

1 supports the facilitation of business development and investment
2 in the state.

3 (f) Encourage collaboration among research institutions, startup
4 companies, local governments, venture capitalists, and economic
5 development agencies to promote innovation.

6 (g) In cooperation with the federal government, foster
7 relationships with overseas entities to improve the state’s image
8 as a destination for business investment and expansion.

9 (h) Conduct research on the state’s business climate, including,
10 but not limited to, research on how the state can remain on the
11 leading edge of innovation and emerging sectors.

12 (i) Support small businesses by providing information about
13 accessing capital, complying with regulations, and supporting state
14 initiatives that support small business.

15 (j) Establish the Building and Reinforcing Inclusive, Diverse,
16 Gender-Supportive Equity Project (BRIDGE Project) to promote
17 social equity, civil rights, and antidiscrimination through marketing
18 and advertising campaigns.

19 SEC. 3. Article 16 (commencing with Section 12100.170) is
20 added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the
21 Government Code, to read:

22

23 Article 16. Building and Reinforcing Inclusive, Diverse,
24 Gender-Supportive Equity Project
25

26 12100.170. This chapter shall be known, and may be cited, as
27 the Building and Reinforcing Inclusive, Diverse,
28 Gender-Supportive Equity Project (BRIDGE Project).

29 12100.171. (a) There is hereby established, within the office,
30 the BRIDGE Project.

31 (b) The purpose of the BRIDGE Project is to raise public
32 awareness and promote civil rights and antidiscrimination through
33 education, advertising, and marketing activities.

34 (c) There is hereby created the BRIDGE Project Fund within
35 the office. Moneys in the account shall be available, upon
36 appropriation by the Legislature, for the purposes of this article.
37 The office shall establish a process to receive donations into the
38 fund.

39 (d) The office may contract with a private, nonprofit agency
40 that is the leading producer of public service advertisements and

1 is able to use the services of volunteer advertising agencies and
2 donated media to conduct the marketing activities required by this
3 article.

4 (e) Any media campaign funded pursuant to this article is subject
5 to all of the following requirements:

6 (1) A media campaign funded pursuant to this article shall not
7 promote a political purpose or feature in any manner the image or
8 voice of any elected public official or candidate for elected office,
9 or directly represent the views of any elected public official or
10 candidate for elected office.

11 (2) Media campaigns may be on a national scale and, to the
12 extent possible, may target audiences in a state or states, or a media
13 market that includes a state or states that have enacted a law that
14 voids or repeals, or has the effect of voiding or repealing, an
15 existing state or local protection against discrimination on the basis
16 of sexual orientation, gender identity, or gender expression, or
17 have enacted a law that authorizes or requires discrimination
18 against same-sex couples or their families or on the basis of sexual
19 orientation, gender identity, or gender expression, including any
20 law that creates an exemption to antidiscrimination laws in order
21 to permit discrimination against same-sex couples or their families
22 or on the basis of sexual orientation, gender identity, or gender
23 expression.

24 (3) Media campaigns funded pursuant to this article shall be
25 designed to educate the public and promote antidiscrimination,
26 issues LGBTQ+ communities face, civil rights, acceptance and
27 inclusion of all people regardless of race, religion, gender, sexual
28 orientation, age, and ability.

29 (f) The office shall convene an advisory committee of no more
30 than 10 members to advise the office on BRIDGE Project media
31 campaigns, including, but not limited to, the content of media
32 campaigns, emerging issues relevant to the purpose of the BRIDGE
33 Project, evaluation of current and potential campaigns, and strategic
34 outreach to communities affected by the campaign. The advisory
35 committee members shall include LGBTQ+ advocates, marketing
36 and public relations professionals, and *representatives from*
37 research institutions as necessary to develop and evaluate media
38 campaigns funded pursuant to this article. The advisory committee
39 members shall be determined by the director.

1 (g) Nothing in this chapter shall be interpreted to require a state
2 employee or officer to travel to a state or states that have enacted
3 a law that would discriminate on the basis of sex, sexual
4 orientation, gender identity, or gender expression, or that has the
5 effect of prohibiting conduct or activities otherwise protected under
6 the laws of this state.

7 ~~SEC. 4.— Section 4646 of the Welfare and Institutions Code is~~
8 ~~amended to read:~~

9 ~~4646. (a) It is the intent of the Legislature to ensure that the~~
10 ~~individual program plan and provision of services and supports~~
11 ~~by the regional center system is centered on the individual and the~~
12 ~~family of the individual with developmental disabilities and takes~~
13 ~~into account the needs and preferences of the individual and the~~
14 ~~family, if appropriate, as well as promoting community integration,~~
15 ~~independent, productive, and normal lives, and stable and healthy~~
16 ~~environments. It is the further intent of the Legislature to ensure~~
17 ~~that the provision of services to consumers and their families be~~
18 ~~effective in meeting the goals stated in the individual program~~
19 ~~plan, reflect the preferences and choices of the consumer, and~~
20 ~~reflect the cost-effective use of public resources.~~

21 ~~(b) The individual program plan is developed through a process~~
22 ~~of individualized needs determination. The individual with~~
23 ~~developmental disabilities and, if appropriate, the individual's~~
24 ~~parents, legal guardian or conservator, or authorized representative,~~
25 ~~shall have the opportunity to actively participate in the development~~
26 ~~of the plan.~~

27 ~~(c) An individual program plan shall be developed for any~~
28 ~~person who, following intake and assessment, is found to be~~
29 ~~eligible for regional center services. These plans shall be completed~~
30 ~~within 60 days of the completion of the assessment. At the time~~
31 ~~of intake, the regional center shall inform the consumer and, if~~
32 ~~appropriate, the consumer's parents, legal guardian or conservator,~~
33 ~~or authorized representative, of the services available through the~~
34 ~~state council and the protection and advocacy agency designated~~
35 ~~by the Governor pursuant to federal law, and shall provide the~~
36 ~~address and telephone numbers of those agencies.~~

37 ~~(d) Individual program plans shall be prepared jointly by the~~
38 ~~planning team. Decisions concerning the consumer's goals,~~
39 ~~objectives, and services and supports that will be included in the~~
40 ~~consumer's individual program plan and purchased by the regional~~

1 center or obtained from generic agencies shall be made by
2 agreement between the regional center representative and the
3 consumer or, if appropriate, the parents, legal guardian,
4 conservator, or authorized representative at the program plan
5 meeting.

6 (e) Regional centers shall comply with the request of a consumer
7 or, if appropriate, the request of the consumer's parents, legal
8 guardian, conservator, or authorized representative, that a
9 designated representative receive written notice of all meetings to
10 develop or revise the individual program plan and of all notices
11 sent to the consumer pursuant to Section 4710. The designated
12 representative may be a parent or family member.

13 (f) Notwithstanding any other law, until June 30, 2023, a
14 meeting regarding the provision of services and supports by the
15 regional center, including a meeting to develop or revise the
16 individual program plan, shall be held by remote electronic
17 communications if requested by the consumer or, if appropriate,
18 if requested by the consumer's parents, legal guardian, conservator,
19 or authorized representative.

20 (g) At the conclusion of an individual program plan meeting,
21 an authorized representative of the regional center shall provide
22 to the consumer, in written or electronic format, a list of the
23 agreed-upon services and supports, and, if known, the projected
24 start date, the frequency and duration of the services and supports,
25 and the provider. The authorized representative of the regional
26 center shall sign the list of agreed-upon services and supports at
27 that time. The consumer, or if appropriate, the consumer's parent,
28 legal guardian, conservator, or authorized representative shall sign
29 the list of agreed-upon services and supports prior to its
30 implementation. The consumer, or if appropriate, the consumer's
31 parent, legal guardian, conservator, or authorized representative,
32 may elect to delay receipt of the list of agreed-upon services and
33 supports pending final agreement, as described in subdivision (h).
34 If the consumer, or if appropriate, the consumer's parent, legal
35 guardian, conservator, or authorized representative, elects to delay
36 the receipt of the list of agreed-upon services and supports for 15
37 days, the list shall be provided in the preferred language of the
38 consumer, or of the consumer's parent, legal guardian, or
39 authorized representative.

1 ~~(h) If a final agreement regarding the services and supports to~~
2 ~~be provided to the consumer cannot be reached at a program plan~~
3 ~~meeting, then a subsequent program plan meeting shall be~~
4 ~~convened within 15 days, or later at the request of the consumer~~
5 ~~or, if appropriate, the parents, legal guardian, conservator, or~~
6 ~~authorized representative or if agreed to by the planning team. The~~
7 ~~list of the agreed-upon services and supports described in~~
8 ~~subdivision (g) and signed by the authorized representative of the~~
9 ~~regional center shall be provided, in writing or electronically, at~~
10 ~~the conclusion of the subsequent program plan meeting, and shall~~
11 ~~be provided in the preferred language of the consumer, or of the~~
12 ~~consumer's parent, legal guardian, conservator, or authorized~~
13 ~~representative. Additional program plan meetings may be held~~
14 ~~with the agreement of the regional center representative and the~~
15 ~~consumer or, if appropriate, the parents, legal guardian,~~
16 ~~conservator, or authorized representative.~~

17 ~~(i) An authorized representative of the regional center and the~~
18 ~~consumer or, if appropriate, the consumer's parent, legal guardian,~~
19 ~~conservator, or authorized representative shall sign the individual~~
20 ~~program plan and the list of the agreed-upon services and supports~~
21 ~~prior to its implementation. If the consumer or, if appropriate, the~~
22 ~~consumer's parent, legal guardian, conservator, or authorized~~
23 ~~representative, does not agree with all components of the individual~~
24 ~~program plan, the consumer may indicate that disagreement on~~
25 ~~the plan. Disagreement with specific plan components shall not~~
26 ~~prohibit the implementation of services and supports agreed to by~~
27 ~~the consumer or, if appropriate, the consumer's parent, legal~~
28 ~~guardian, conservator, or authorized representative. If the consumer~~
29 ~~or, if appropriate, the consumer's parent, legal guardian,~~
30 ~~conservator, or authorized representative, does not agree with the~~
31 ~~plan in whole or in part, the consumer shall be sent written notice~~
32 ~~of their appeal rights, as required by Sections 4701 and 4710.~~

33 ~~(j) (1) A regional center shall communicate in the consumer's~~
34 ~~preferred language, or, if appropriate, the preferred language of~~
35 ~~the consumer's family, legal guardian, conservator, or authorized~~
36 ~~representative, during the planning process for the individual~~
37 ~~program plan, including during the program plan meeting, and~~
38 ~~including providing alternative communication services, as required~~
39 ~~by Sections 11135 to 11139, inclusive, of the Government Code~~
40 ~~and implementing regulations.~~

1 ~~(2) A regional center shall provide alternative communication~~
2 ~~services, including providing copies of the list of services and~~
3 ~~supports, and the individual program plan in the preferred language~~
4 ~~of the consumer or the consumer's family, legal guardian,~~
5 ~~conservator, or authorized representative, or both, as required by~~
6 ~~Sections 11135 to 11139, inclusive, of the Government Code and~~
7 ~~implementing regulations.~~

8 ~~(3) The preferred language of the consumer or the consumer's~~
9 ~~family, legal guardian, conservator, or authorized representative,~~
10 ~~or both, shall be documented in the individual program plan.~~

11 *SEC. 4. Section 4646 of the Welfare and Institutions Code, as*
12 *amended by Section 17 of Chapter 44 of the Statutes of 2023, is*
13 *amended to read:*

14 4646. (a) It is the intent of the Legislature to ensure that the
15 individual program plan and provision of services and supports
16 by the regional center system is centered on the individual and the
17 family of the individual with developmental disabilities and takes
18 into account the needs and preferences of the individual and the
19 family, if appropriate, as well as promoting community integration,
20 independent, productive, and normal lives, and stable and healthy
21 environments. It is the further intent of the Legislature to ensure
22 that the provision of services to consumers and their families be
23 effective in meeting the goals stated in the individual program
24 plan, reflect the preferences and choices of the consumer, and
25 reflect the cost-effective use of public resources.

26 (b) The individual program plan is developed through a process
27 of individualized needs determination. The individual with
28 developmental disabilities and, if appropriate, the individual's
29 parents, legal guardian or conservator, or authorized representative,
30 shall have the opportunity to actively participate in the development
31 of the plan.

32 (c) An individual program plan shall be developed for any
33 person who, following intake and assessment, is found to be
34 eligible for regional center services. These plans shall be completed
35 within 60 days of the completion of the assessment. At the time
36 of intake, the regional center shall inform the consumer and, if
37 appropriate, the consumer's parents, legal guardian or conservator,
38 or authorized representative, of the services available through the
39 state council and the protection and advocacy agency designated

1 by the Governor pursuant to federal law, and shall provide the
2 address and telephone numbers of those agencies.

3 (d) Individual program plans shall be prepared jointly by the
4 planning team. Decisions concerning the consumer’s goals,
5 objectives, and services and supports that will be included in the
6 consumer’s individual program plan and purchased by the regional
7 center or obtained from generic agencies shall be made by
8 agreement between the regional center representative and the
9 consumer or, if appropriate, the parents, legal guardian,
10 conservator, or authorized representative at the program plan
11 meeting.

12 (e) Regional centers shall comply with the request of a consumer
13 or, if appropriate, the request of the consumer’s parents, legal
14 guardian, conservator, or authorized representative, that a
15 designated representative receive written notice of all meetings to
16 develop or revise the individual program plan and of all notices
17 sent to the consumer pursuant to Section 4710. The designated
18 representative may be a parent or family member.

19 (f) Notwithstanding any other law, until June 30, 2024, a
20 meeting regarding the provision of services and supports by the
21 regional center, including a meeting to develop or revise the
22 individual program plan, shall be held by remote electronic
23 communications if requested by the consumer or, if appropriate,
24 if requested by the consumer’s parents, legal guardian, conservator,
25 or authorized representative.

26 (g) At the conclusion of an individual program plan meeting,
27 an authorized representative of the regional center shall provide
28 to the consumer, in written or electronic format, a list of the
29 agreed-upon services and supports, and, if known, the projected
30 start date, the frequency and duration of the services and supports,
31 and the provider. The authorized representative of the regional
32 center shall sign the list of agreed-upon services and supports at
33 that time. The consumer, or if appropriate, the consumer’s parent,
34 legal guardian, conservator, or authorized representative shall sign
35 the list of agreed-upon services and supports prior to its
36 implementation. The consumer, or if appropriate, the consumer’s
37 parent, legal guardian, conservator, or authorized representative,
38 may elect to delay receipt of the list of agreed-upon services and
39 supports pending final agreement, as described in subdivision (h).
40 If the consumer, or if appropriate, the consumer’s parent, legal

1 guardian, conservator, or authorized representative, elects to delay
2 the receipt of the list of agreed-upon services and supports for 15
3 days, the list shall be provided in the preferred language of the
4 consumer, or of the consumer's parent, legal guardian, or
5 authorized representative.

6 (h) If a final agreement regarding the services and supports to
7 be provided to the consumer cannot be reached at a program plan
8 meeting, then a subsequent program plan meeting shall be
9 convened within 15 days, or later at the request of the consumer
10 or, if appropriate, the parents, legal guardian, conservator, or
11 authorized representative or if agreed to by the planning team. The
12 list of the agreed-upon services and supports described in
13 subdivision (g) and signed by the authorized representative of the
14 regional center shall be provided, in writing or electronically, at
15 the conclusion of the subsequent program plan meeting, and shall
16 be provided in the preferred language of the consumer, or of the
17 consumer's parent, legal guardian, conservator, or authorized
18 representative. Additional program plan meetings may be held
19 with the agreement of the regional center representative and the
20 consumer or, if appropriate, the parents, legal guardian,
21 conservator, or authorized representative.

22 (i) An authorized representative of the regional center and the
23 consumer or, if appropriate, the consumer's parent, legal guardian,
24 conservator, or authorized representative shall sign the individual
25 program plan and the list of the agreed-upon services and supports
26 prior to its implementation. If the consumer or, if appropriate, the
27 consumer's parent, legal guardian, conservator, or authorized
28 representative, does not agree with all components of the individual
29 program plan, the consumer may indicate that disagreement on
30 the plan. Disagreement with specific plan components shall not
31 prohibit the implementation of services and supports agreed to by
32 the consumer or, if appropriate, the consumer's parent, legal
33 guardian, conservator, or authorized representative. If the consumer
34 or, if appropriate, the consumer's parent, legal guardian,
35 conservator, or authorized representative, does not agree with the
36 plan in whole or in part, the consumer shall be sent written notice
37 of their appeal rights, as required by Sections 4701 and 4710.

38 (j) (1) A regional center shall communicate in the consumer's
39 preferred language, or, if appropriate, the preferred language of
40 the consumer's family, legal guardian, conservator, or authorized

1 representative, during the planning process for the individual
2 program plan, including during the program plan meeting, and
3 including providing alternative communication services, as required
4 by Sections 11135 to ~~11139.8~~, *11139*, inclusive, of the Government
5 Code and implementing regulations.

6 (2) A regional center shall provide alternative communication
7 services, including providing copies of the list of services and
8 supports, and the individual program plan in the preferred language
9 of the consumer or the consumer’s family, legal guardian,
10 conservator, or authorized representative, or both, as required by
11 Sections 11135 to ~~11139.8~~, *11139*, inclusive, of the Government
12 Code and implementing regulations.

13 (3) The preferred language of the consumer or the consumer’s
14 family, legal guardian, conservator, or authorized representative,
15 or both, shall be documented in the individual program plan.

O

SB 544 (Laird, D-Santa Cruz)

Bagley-Keene Open Meeting Act: teleconferencing.

Status/History: 7/12/2023 – Heard in the Assembly Committee on Governmental Organization; to be amended and referred to the Assembly Committee on Appropriations.

Location: 7/12/2023 – Assembly Committee on Appropriations

Introduced: 2/15/2023

Last Amended: 4/27/2023

Board Position: Support (as of 6/8/2023)

Board Staff Analysis: 7/17/2023

Bill Summary: Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting. Existing law, until July 1, 2023, authorizes, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspends certain requirements of the act, including the above-described teleconference requirements.

This bill, as amended March 20, 2023, would amend existing law that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting. This bill would require a state body that holds a meeting through teleconferencing pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure for receiving and swiftly resolving requests for reasonable modification or

accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

Affected Laws: An act to amend Section 11123 of the Government Code, relating to state government.

Staff Comment: This bill would allow the Board to conduct its meetings virtually (“via teleconference”) without identifying each location from which a Board Member is participating. It would require that if the Board chose to conduct a meeting virtually, it would have to provide a minimum of one physical location where the public could attend and participate in the meeting; a Board Member or a Board staff person would be required to be present at that location. The Board would still be able to conduct in-person meetings without providing a virtual option.

SB 544 was amended on April 27, 2023, to include requirements relating to the posting of notices of the meeting and what to do in the event the means of remote participate fails and cannot be restored; to provide a definition of “remote location”; and to require members who participate remotely to disclose whether there are any individuals over the age of 18 present in the room of the remote location.

The bill was heard on July 12, 2023, in the Assembly Committee on Governmental Organization. At that hearing, the author agreed to the amendments recommended by the Committee in order to move the bill. The amendments, as discussed in the Committee analysis, are as follows:

- 1) Amend the bill to include a sunset date of January 1, 2026. This will allow for further analysis of the implementation and overall impact of this and previous Bagley Keane waivers. This sunset date would also dovetail with the January 1, 2026, sunset date as provided for in AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, that granted a Ralph M. Brown Act exemption to allow members of local legislative bodies to use teleconferencing, under specified conditions.
- 2) Amend the bill to provide that a majority of the members (quorum) of the state body would need to present at one physical location for a minimum of a fifty percent of the meetings of the state body each year. This will provide state bodies with the flexibility they need to continue conducting business in a teleconferencing environment, while providing the public with the opportunity to participate in person and interact directly with members at designated meetings.

The Committee analysis including the reasons for these amendments is included for the Board’s review. As of July 17, the amendments are not in print. If they become available prior to the meeting, the amended bill will be provided to the Board for review and consideration.

Staff Recommendation: Staff’s recommendation is pending review of the actual language of the amended bill. More information will be provided at the July 28, 2023, meeting.

AMENDED IN SENATE APRIL 27, 2023
AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 544

Introduced by Senator Laird

February 15, 2023

An act to amend Section 11123 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Laird. Bagley-Keene Open Meeting Act: teleconferencing.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

Existing law, until July 1, 2023, authorizes, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspends certain requirements of the act, including the above-described teleconference requirements.

This bill would amend existing law that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements

that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting.

This bill would provide that it does not affect prescribed existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The bill would prohibit the notice and agenda from disclosing information regarding any remote location from which a member is participating and define “remote location” for this purpose. The bill would provide that members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.

This bill would require a state body, upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.

This bill would require a state body that holds a meeting through teleconferencing pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure

for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

This bill would require a member of a state body who attends a meeting by teleconference from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with any such individuals.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 11123 of the Government Code is
- 2 amended to read:
- 3 11123. (a) All meetings of a state body shall be open and
- 4 public and all persons shall be permitted to attend any meeting of
- 5 a state body except as otherwise provided in this article.
- 6 (b) (1) This article does not prohibit a state body from holding
- 7 an open or closed meeting by teleconference for the benefit of the
- 8 public and state body. The meeting or proceeding held by
- 9 teleconference shall otherwise comply with all applicable
- 10 requirements or laws relating to a specific type of meeting or
- 11 proceeding, including the following:
- 12 (A) The teleconferencing meeting shall comply with all
- 13 requirements of this article applicable to other meetings.
- 14 (B) The portion of the teleconferenced meeting that is required
- 15 to be open to the public shall be audible to the public at the location
- 16 specified in the notice of the meeting.
- 17 (C) If the state body elects to conduct a meeting or proceeding
- 18 by teleconference, it shall conduct teleconference meetings in a
- 19 manner that protects the rights of any party or member of the public
- 20 appearing before the state body. The state body shall provide a
- 21 means by which the public may remotely hear audio of the meeting,

1 remotely observe the meeting, or attend the meeting by providing
2 on the posted agenda a teleconference telephone number, an
3 internet website or other online platform, and a physical address
4 for at least one site, including, if available, access equivalent to
5 the access for a member of the state body participating remotely.
6 The applicable teleconference telephone number, internet website
7 or other online platform, and physical address indicating how the
8 public can access the meeting remotely and in person shall be
9 specified in any notice required by this article.

10 (D) The agenda shall provide an opportunity for members of
11 the public to address the state body directly pursuant to Section
12 11125.7.

13 (E) All votes taken during a teleconferenced meeting shall be
14 by rollcall.

15 (F) The portion of the teleconferenced meeting that is closed to
16 the public may not include the consideration of any agenda item
17 being heard pursuant to Section 11125.5.

18 (G) At least one member or staff of the state body shall be
19 physically present at the location specified in the notice of the
20 meeting.

21 (H) *This section does not affect the requirement prescribed by*
22 *this article that the state body post an agenda of a meeting in*
23 *accordance with the applicable notice requirements of this article,*
24 *including Section 11125, requiring the state body to post an agenda*
25 *of a meeting at least 10 days in advance of the meeting, Section*
26 *11125.4, applicable to special meetings, and Sections 11125.5 and*
27 *11125.6, applicable to emergency meetings. The state body shall*
28 *post the agenda on its internet website and, on the day of the*
29 *meeting, at any physical meeting location designated in the notice*
30 *of the meeting. The notice and agenda shall not disclose*
31 *information regarding any remote location from which a member*
32 *is participating.*

33 (I) *Members of the public shall be entitled to exercise their right*
34 *to directly address the state body during the teleconferenced*
35 *meeting without being required to submit public comments prior*
36 *to the meeting or in writing.*

37 (J) *Upon discovering that a means of remote participation*
38 *required by this section has failed during a meeting and cannot*
39 *be restored, the state body shall end or adjourn the meeting in*
40 *accordance with Section 11128.5. In addition to any other*

1 *requirements that may apply, the state body shall provide notice*
2 *of the meeting's end or adjournment on the state body's internet*
3 *website and by email to any person who has requested notice of*
4 *meetings of the state body by email under this article. If the meeting*
5 *will be adjourned and reconvened on the same day, further notice*
6 *shall be provided by an automated message on a telephone line*
7 *posted on the state body's agenda, internet website, or by a similar*
8 *means, that will communicate when the state body intends to*
9 *reconvene the meeting and how a member of the public may hear*
10 *audio of the meeting or observe the meeting.*

11 (2) For the purposes of this subdivision, “teleconference” both
12 of the following definitions shall apply:

13 (A) “Teleconference” means a meeting of a state body, the
14 members of which are at different locations, connected by
15 electronic means, through either audio or both audio and video.
16 This section does not prohibit a state body from providing members
17 of the public with additional locations in which the public may
18 observe or address the state body by electronic means, through
19 either audio or both audio and video.

20 (B) “Remote location” means a location from which a member
21 of a state body participates in a meeting other than any physical
22 meeting location designated in the notice of the meeting. Remote
23 locations need not be accessible to the public.

24 (c) If a state body holds a meeting through teleconferencing
25 pursuant to this section and allows members of the public to
26 observe and address the meeting telephonically or otherwise
27 electronically, the state body shall also do both of the following:

28 (1) Implement a procedure for receiving and swiftly resolving
29 requests for reasonable modification or accommodation from
30 individuals with disabilities, consistent with the federal Americans
31 with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and
32 resolving any doubt whatsoever in favor of accessibility.

33 (2) Advertise that procedure each time notice is given of the
34 means by which members of the public may observe the meeting
35 and offer public comment.

36 (d) The state body shall publicly report any action taken and
37 the vote or abstention on that action of each member present for
38 the action.

39 (e) *If a member of a state body attends a meeting by*
40 *teleconference from a remote location, the member shall disclose*

1 *whether any other individuals 18 years of age or older are present*
2 *in the room at the remote location with the member, and the*
3 *general nature of the member’s relationship with any such*
4 *individuals.*

5 (e)

6 (f) For purposes of this section, “participate remotely” means
7 participation in a meeting at a location other than the physical
8 location designated in the agenda of the meeting.

9 SEC. 2. The Legislature finds and declares that Section 1 of
10 this act, which amends Section 11123 of the Government Code,
11 imposes a limitation on the public’s right of access to the meetings
12 of public bodies or the writings of public officials and agencies
13 within the meaning of Section 3 of Article I of the California
14 Constitution. Pursuant to that constitutional provision, the
15 Legislature makes the following findings to demonstrate the interest
16 protected by this limitation and the need for protecting that interest:

17 (a) By removing the requirement for agendas to be placed at
18 the location of each public official participating in a public meeting
19 remotely, including from the member’s private home or hotel
20 room, this act protects the personal, private information of public
21 officials and their families while preserving the public’s right to
22 access information concerning the conduct of the people’s business.

23 (b) During the COVID-19 public health emergency, audio and
24 video teleconference were widely used to conduct public meetings
25 in lieu of physical location meetings, and those public meetings
26 have been productive, increased public participation by all
27 members of the public regardless of their location and ability to
28 travel to physical meeting locations, increased the pool of people
29 who are able to serve on these bodies, protected the health and
30 safety of civil servants and the public, and have reduced travel
31 costs incurred by members of state bodies and reduced work hours
32 spent traveling to and from meetings.

33 (c) Conducting audio and video teleconference meetings
34 enhances public participation and the public’s right of access to
35 meetings of the public bodies by improving access for individuals
36 that often face barriers to physical attendance.

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Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION
Miguel Santiago, Chair
SB 544 (Laird) – As Amended April 27, 2023

SENATE VOTE: 26-3

SUBJECT: Bagley-Keene Open Meeting Act: teleconferencing

SUMMARY: This bill removes from the Bagley-Keene Open Meeting Act (Bagley-Keene or Act), indefinitely, requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The state body shall provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely, as specified, and requires the agenda to provide an opportunity for the public to address the state body directly, as specified. The bill provides that one staff or member needs to be physically present at the physical location specified in the meeting, as opposed to existing law which requires a member to be present. Specifically, **this bill:**

- 1) Requires state bodies to offer remote audio access, remote observation, and in-person attendance for teleconferenced meetings by listing teleconference numbers, online platforms, and physical addresses on the agenda, ensuring equivalent access for remote members, as specified.
- 2) Requires the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person to be specified in any notice required by Bagley-Keene.
- 3) Deletes the requirement in Bagley-Keene that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location.
- 4) Provides that the requirement that at least one member of the state body be physically present at the location specified in the notice of the meeting may be satisfied by at least one staff of the state body.
- 5) Requires state bodies conducting teleconferenced meetings to establish and advertise a procedure for handling accessibility requests from individuals with disabilities, in compliance with the Americans with Disabilities Act of 1990.
- 6) Defines “participate remotely” to mean participation in a meeting at a location other than the physical location designated in the agenda of the meeting.
- 7) Defines “Remote location” means a location from which a member of a state body participates in a meeting other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

- 8) Provides that this bill does not affect the existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting.
- 9) Specifies that members of the public are entitled to exercise their right to directly address the state body during the teleconference meeting without being required to submit public comments prior to the meeting or in writing.
- 10) Requires a state body, upon discovering that a means of remote participation has failed during a meeting and cannot be restored, to end or adjourn the meeting, as specified.
- 11) Requires a member of a state body that is participating remotely to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, as specified.
- 12) States findings and declarations of the Legislature regarding the imposition of a limitation on the public's right of access to the meetings of public bodies or the writings of public officials.
- 13) Makes technical and confirming changes.

EXISTING LAW:

- 1) Affirms that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (California Constitution Article I, § 3(b)(1).)
- 2) Establishes the Bagley-Keene Act, which requires state bodies to conduct their business in open public meetings, except as provided by the Act, and establishes requirements and procedures for such meetings. (California Government Code, tit. 2, div. 3, art. 9, §§ 11120 et seq.)
 - a) "State bodies" covered by the Act include every state board, commission or body created by statute or required by law to conduct official meetings, every commission created by executive order, a board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body, any advisory body created by formal action of a state body, anybody supported by public funds and which a member of a state body serves in their official capacity, and the State Bar of California. (California Government Code, § 11121.)
 - b) "State bodies" do not include specified legislative agencies (except the State Bar of California), agencies subject to the Brown Act, and certain educational and health-related agencies. (California Government Code, § 11121.1.)
- 3) Authorizes state bodies subject to the Bagley-Keene to provide a teleconferencing option—which may be via audio or audiovisual means—for its meetings for the benefit of the public, subject to the following relevant requirements:
 - a) The meeting must be audible to the public at the location specified in the notice of the meeting.

- b) The legislative body must post agendas at all teleconference locations.
 - c) Each teleconference location must be identified in the notice and agenda of the meeting or proceeding.
 - d) Each teleconference location must be accessible to the public.
 - e) The agenda must provide an opportunity for members of the public to address the legislative body at each teleconference location.
 - f) All votes must be taken via roll call.
 - g) At least one member of the state body must be physically present at the location specified in the notice of the meeting. (California Government Code, § 11123.)
- 4) Authorizes state advisory boards and similar advisory bodies to hold a meeting via teleconference when it complies with the following:
- a) A member participating remotely must be listed in the minutes of the meeting.
 - b) The state body must provide public notice at least 24 hours before the meeting that identifies the member(s) participating remotely and the primary physical meeting location; the body need not disclose the remote locations.
 - c) The state body must designate a primary physical location and a quorum of the members must be in attendance at the primary physical meeting location; the remote members do not count towards establishing a quorum.
 - d) The state body must provide a means by which the public may remotely hear audio of, or observe, the meeting, with access equal to the members of the state body participating remotely. Instructions for remote access must be included in the 24-hour meeting notice.
 - e) Upon discovering that a provided means of remote access has failed, the body must end or adjourn the meeting and provide notice regarding when the state body will reconvene. (California Government Code, § 11123.5.)
- 5) Authorizes the Governor to proclaim a state of emergency in an area affected or likely to be affected thereby when conditions of disaster or extreme peril to the safety of persons and property within the state, as specified, exist, and which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local body. (California Government Code, §§ 8558, 8625.)
- 6) Authorizes the Governor, during a state of emergency, to suspend any regulatory statute, or statute prescribing the procedure for the conduct of state business, or the orders, rules, or regulations of any state agency, where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency. (California Government Code, § 8571)

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

Purpose of the bill. According to the author, “In response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings, such as increased participation and reduced operating costs to the state. SB 544 codifies the Governor’s Executive Order allowing state boards and commissions the opportunity to continue holding virtual meetings without being required to list the private addresses of each remote member or provide public access to private locations. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state.”

Background.

Bagley-Keene Act. The Bagley-Keene and the Brown Act are two laws that ensure the public can attend and participate in the meetings of state and local government bodies in California. These laws protect the public's right of access to the decision-making process of their government, subject to specific exceptions. Both permit a teleconferencing option for public meetings, subject to certain requirements for establishing a quorum, providing notice, posting agendas, and permitting members of the public to attend at any teleconferencing location.

The Bagley-Keene Act of 1967, which was passed by the Legislature, essentially stated that the public must have a seat at the table whenever a body gathers to reach a consensus. By doing this, the Legislature has provided the general public with the ability to monitor and be part of the decision-making process. The Bagley-Keene facilitates transparency of government activities and protects the rights of citizens to participate in state government deliberations. Therefore, absent a specific reason to keep the public out of meetings, the public should be allowed to monitor and participate in the decision-making process.

Under Bagley-Keene a “state body” refers to state boards, state commissions, and similar multi-member bodies of state government that are required to hold official meetings. The term “state body” also applies to committees, boards, and commissions who exercise authority delegated to it by a “state body,” and to advisory committees or groups if they are created by formal action of a state body and have more than three members. The term may also apply to a board, commission, or agency that appears to be private or non-governmental in nature, if it receives funds provided by a “state body” and includes a member of a state body serving in their official capacity. The law does not apply to individual officials, advisory committees with no decision-making authority, or the California State Legislature.

The Act sets forth specific notice and agenda requirements. Bodies subject to the Bagley-Keene must prepare and publish, at least 10 days in advance of the meeting, an agenda of all items to be discussed or acted upon at the meeting, with the time and place of the meeting. This applies to both open-and-closed meetings scheduled for the body. The physical location of the meeting must be identified. Except as otherwise provided, State bodies shall provide an opportunity for members of the public to directly address the body on each agenda item before or during the

state body's discussion or consideration of an item. State bodies must conduct their meetings openly, ensuring that members of the public can attend and participate without any restrictions based on race, gender, disability, or other discriminatory factors. The Act also requires state bodies to provide reasonable accommodations for individuals with disabilities, ensuring accessibility to meetings and materials. The public has the right to address state bodies on any agenda item before or during the meeting. State bodies must provide opportunities for public comment and cannot prohibit criticism of their policies, procedures, or actions. They may, however, impose reasonable time limits on public comments to maintain order and facilitate the conduct of business. The Bagley-Keene includes certain exceptions, such as closed sessions for discussing personnel issues or pending litigation, to protect the privacy and legal interests of individuals and the state. (§ 11126.)

The description of what constitutes a meeting under the Bagley-Keene is found in Cal. Gov. Code § 11122.5 (a). In essence, it is as a congregation of a majority of the members of the state body. This can even apply to informal gatherings, as well as meetings that are done via videoconference, or conducted over the telephone by conference call. Serial meetings also count towards the definition. In other words, state agency officials cannot get around the Act via a series of individual calls or meetings. Any written materials provided to a majority of the board are deemed a public record.

A meeting may take place by teleconference (either audio only or both audio and video), but the meeting must (1) comply with all the other requirements of the open meetings laws (e.g., notice requirements); (2) be audible to the public at the location specified in the notice of the open meeting; (3) have at least one member of the government body physically present at the location specified in the notice of the meeting.

Teleconferencing Executive Orders and Legislative Action in response to COVID-19. When the inception of the COVID-19 pandemic began, state agencies struggled to conduct their meetings in compliance with the public accessibility and transparency requirements of the Bagley-Keene while still abiding by stay-at-home orders. As a result, Governor Newsom issued several Executive Orders (Order N-25-20 (Mar. 12, 2020); Order N-29-20 (Mar. 17, 2020); Order N-08-21 (Jun. 11, 2021) to grant state and local agencies the flexibility to meet remotely due to the COVID-19 pandemic.

Executive Order N-29-20, stated that, “Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived. “All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.”

In between EO's, the Legislature passed and the Governor Newsom signed AB 361 (R. Rivas), Chapter 165, Statutes of 2021, which extended and waived specific Bagley-Keene requirements related to a previous EO through January 31, 2022. In January 2022, Governor Newsom signed a

new executive order (Order N-1-22) allowing state bodies to continue holding public meetings by teleconference instead of in-person through March 31, 2022. The EO stated, “In light of the present surge in cases due to the Omicron variant, and to protect the public health and safety, it is necessary to temporarily extend the flexibilities for state bodies to conduct teleconferences under AB 361 (R. Rivas of 2021) beyond January 31, 2022, to provide state bodies the option of conducting public meetings remotely to reduce the risk of in-person exposure to members of the staff body, staff, and members of the public.

SB 189 (Senate Committee on Budget, Ch. 48, Stats. 2022) extended the Bagley-Keene waiver to hold public meetings entirely remotely via teleconferencing, with no members of the body required to meet in person, through July 1, 2023. Without an exception, the Bagley-Keene requires at least one member of the state body to be physically present at the location noticed on the posted agenda and that all teleconferencing members must permit public access at their locations and post the agenda at the meeting locations. The author and sponsor of the bill argue that these existing requirements potentially put members of state bodies at risk by exposing their private addresses to the public and requiring public access the member’s private residence or hotel.

Report by Little Hoover Commission. In June 2021, The Little Hoover Commission issued a report #261 titled, “The Government of Tomorrow: Online Meetings.” In its report, the Commission found that California can make its public meetings more accessible and inclusive by requiring that boards and commissions give the public remote access to every meeting. This change would especially benefit those who traditionally face obstacles in interacting with state government, such as low-income people, rural Californians, or people with physical disabilities.

The report stated that, “Our survey of Bagley-Keene agencies affirms that such meetings offer substantial benefits to the public, including reduced travel costs, a broadening of potential board members and commissioners who are able to serve, and the ability to meet more often and in a timely way. The year of the pandemic has proven that state government can take advantage of modern technology to hold meetings that are more accessible, more affordable, and more efficient. Remote access to all public meetings unquestionably increases the public’s ability to monitor state government. The practical ability of board and commission members to participate remotely from their homes or private offices allows for this important segment of state government to increase efficiency, inclusion and flexibility.”

In support. In support of the bill, the California Commission on Aging writes that, “[i]n March 2020, the Governor issued an Executive Order, EO-N-29-20, authorizing the use of virtual meetings, thus ensuring state business continued during the COVID-19 pandemic. What started as a public safety stopgap has revealed that virtual meetings promote meeting attendance by the appointed members and increase public participation. SB 544 will increase transparency and promote public participation in State governments by expanding the pool of candidates interested in serving. Older adults and individuals with disabilities are no longer barred from attending meetings or participating in State government simply because they are limited from attending physically. SB 544 will also remove impediments for low-income, rural Californian residents, and caregivers who cannot or find it challenging to travel to one physical location.”

In opposition. The coalition of opposition writes that, “SB 544 would permit government officials doing consequential work on state boards and commissions to conduct public business virtually, without ever again being present at a physical location where the public and press can

directly engage them. While we understand that virtual meetings and temporary measures amid emergencies may be necessary to protect health and safety, public officials serving on public bodies without ever having to convene in person results in a reduction of public access. And while we enthusiastically support increased options for remote participation for members of the public, we oppose this bill because it would forever remove the longstanding requirement that public meetings be held in public places where the public can petition their leaders and other government officials face to face.”

The opposition is seeking an amendment to require a physical quorum of members in one location, which would be open to the public, with other members of the body being able to join remotely. They point to the provisions in AB 2449 (Rubio, Ch. 285, Stats. 2022) as an example of this being done in the context of open meetings requirements for legislative bodies of local governments. This is also the requirement under Bagley-Keene as it relates to advisory boards and similar advisory bodies under Section 11123.5. They also seek several other guardrails around transparency, public participation, and a requirement that the state body provide the public with both call-in and video access.

Policy considerations. When the COVID-19 pandemic required the public, including elected officials, to stay at home to avoid spreading the virus, state bodies recognized that the Bagley-Keene Act teleconferencing provisions did not provide the flexibility they felt necessary to continue conducting their business without risking further spread of the virus. The Governor’s executive order and legislative measures provided state bodies the flexibility they needed to continue their business, while still providing opportunities for the public to participate via teleconference providers. State bodies found the flexibility teleconferencing provides useful to offset the effects of the long-lasting pandemic.

However, to date, limited data and information has been collected to determine if, and how, the Bagley-Keene should be modified to provide more flexibility and effectiveness for state bodies and the general public.

Committee amendments. In order to address some of the concerns raised in the analysis, as well as other considerations, the Committee may wish to adopt the following amendments:

- 1) Amend the bill to include a sunset date of January 1, 2026. This will allow for further analysis of the implementation and overall impact of this and previous Bagley Keane waivers. This sunset date would also dovetail with the January 1, 2026 sunset date as provided for in AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022 that granted a Ralph M. Brown Act exemption to allow members of local legislative bodies to use teleconferencing, under specified conditions.
- 2) Amend the bill to provide that a majority of the members (quorum) of the state body would need to present at one physical location for a minimum of a fifty percent of the meetings of the state body each year. This will provide state bodies with the flexibility they need to continue conducting business in a teleconferencing environment, while providing the public with the opportunity to participate in person and interact directly with members at designated meetings.

Related legislation. SB 411 (Portantino) of 2023. Among other things, would authorize a legislative body of a local agency to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency, as specified. (Assembly Local Government Committee)

SB 537 (Becker) of 2023. Would authorize an eligible legislative body, which is a board, commission, or advisory body of a multijurisdictional, cross county, local agency with appointed members that is subject to the Brown Act, to teleconference their meetings without having to make publicly accessible each teleconference location under certain conditions and limitations. (Assembly Local Government Committee)

AB 817 (Pacheco) of 2023. Among other things, would authorize a subsidiary state bodies to use alternative teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency, as specified. (Assembly Local Government Committee - Hearing postponed by committee)

AB 1275 (Arambula) of 2023. Would authorize the recognized statewide community college student organization and other student-run community college organizations, if specific conditions are met, to use teleconferencing for their meetings without having to post agendas at all teleconferencing locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public. (Senate Committee on Governance and Finance)

Prior legislation. SB 189 (Committee on Budget and Fiscal Review), Chapter 48, Statutes of 2022. Among other things, provided a temporary statutory extension (July 1, 2023) for state bodies in California to hold public meetings through teleconferencing, such as phone or video calls, instead of in-person gatherings, as specified.

AB 2449 (Rubio), Chapter 285, Statutes of 2022. The bill allowed, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions. Clarify the process for members of legislative bodies to participate via teleconference in cases of emergency circumstances, and refine provisions regarding compliance with applicable civil rights and nondiscrimination laws.

AB 1733 (Quirk) of 2022. This bill would have provided specified exemptions from the Bagley-Keene for state bodies that conduct meetings via teleconference. Revises the requirements of the Bagley-Keene to provide the public remote access to every meeting and allow members of state bodies to participate 100 percent remotely, while removing existing provisions of the Act that require each teleconference location to be identified in the notice and agenda and accessible to the public. (Never heard in Assembly Committee on Governmental Organization)

AB 1795 (Fong) of 2022. This bill would have required state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely. (Never heard in Assembly Committee on Governmental Organization)

AB 885 (Quirk) of 2021. This bill would have required a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all

multimember state bodies. (Never heard in Assembly Committee on Governmental Organization)

AB 361 (R. Rivas), Chapter 165, Statutes of 2021. Allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Ralph. M Brown Act restrictions in certain state emergencies, and provides similar authorizations, until January 31, 2022, for state agencies subject to the Bagley-Keene and legislative bodies subject to the Gloria Romero Open Meetings Act of 2000.

AB 339 (Lee and Cristina Garcia) of 2021. The bill would have required, until December 31, 2023, that city councils and boards of supervisors in jurisdictions over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings. Vetoed by Governor Newsom.

AB 1291 (Frazier), Chapter 63, Statutes of 2021. This bill requires a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology.

AB 2028 (Aguiar-Curry) of 2020. This bill requires state bodies to post all writings or materials provided to a member of the state body on the state agency's internet website the first business day after they are provided to the state agency or at least 48 hours in advance of the meeting, as specified. The bill also removes an exemption in existing law by requiring that a state body make an agenda item that had already been discussed by a committee of the state body open to public comment. Died on Senate Inactive File.

SB 53 (Wilk) of 2019-20 Legislative Session. Would have modified the definition of "state body" to clarify that standing committees, even if composed of less than three members, are a "state body" for the purposes of the Bagley-Keene. Held on Assembly Appropriations Suspense File.

AB 2958 (Quirk), Chapter 881, Statutes of 2018. Provided specified exemptions from Bagley-Keene for advisory state bodies that conduct meetings via teleconference.

AB 1976 (Irwin), Chapter 451, Statutes of 2016. Created an exemption from the teleconference meeting requirements in Bagley-Keene for agricultural state bodies.

AB 2058 (Wilk) of the 2013- 2014 Legislative Session. Would have modified the definition of "state body," under Bagley-Keene, to exclude an advisory body with less than three individuals, except for certain standing committees. (Vetoed by Governor Brown)

AB 2720 (Ting), Chapter 510, Statutes of 2014. Required a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Advisory Council for Sourcewise
Agency on Aging \ Area 4

Alcoholic Beverage Control Appeals Board
Board of Behavioral Sciences
California Acupuncture Board
California Architects Board
California Board of Accountancy
California Commission on Aging
California State Board of Optometry
California State Board of Pharmacy
California State Council on Developmental Disabilities (SCDD)
California Structural Pest Control Board
Dental Board of California
Dental Hygiene Board of California
Department of Consumer Affairs, Board of Barbering and Cosmetology
Department of Consumer Affairs, Speech-language Pathology and Audiology and Hearing Aid
Dispensers Board
Disability Rights California
Health Officers Association of California
Medical Board of California
Osteopathic Medical Board of California
Physical Therapy Board of California
The Veterinary Medical Board

Oppose

American Chemistry Council
American Composites Manufacturers Association
California Association of Winegrape Growers
California Manufacturers & Technology Association
Glass Packaging Institute

Oppose Unless Amended

ACLU California Action
California Broadcasters Association
California Common CAUSE
California News Publishers Association
Californians Aware: the Center for Public Forum Rights
Cnma: Latino Journalists of California
First Amendment Coalition
Howard Jarvis Taxpayers Association (HJTA)
Institute of Governmental Advocates
Media Alliance
National Press Photographers Association
Nlgja: Association of Lgbtq+ Journalists
Northern California Society of Professional Journalists
Orange County Press Club
Pacific Media Workers Guild (the Newsguild-communications Workers of America Local 39521)
Radio Television Digital News Association

San Diego Pro Chapter of The Society of Professional Journalists
Society of Professional Journalists, Greater Los Angeles Chapter

Analysis Prepared by: Eric Johnson / G.O. / (916) 319-2531

SB 802 (Roth, D-Riverside)

Licensing boards: disqualification from licensure: criminal conviction.

Status/History: 7/11/2023 – First hearing set for 7/11/2023 canceled at the request of the author.

Location: 7/11/2023 – Assembly Committee on Business and Professions

Introduced: 2/17/2023

Board Position: Watch (as of 4/13/2023)

Board Staff Analysis: 7/17/2023

Bill Summary: Existing law authorizes a board to deny a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified. Existing law requires a board to notify the applicant in writing, as specified, if a board decides to deny an application for licensure based solely or in part on the applicant's conviction history.

If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, this bill would require a board to notify the applicant in writing within 30 days after a decision is made, as specified.

Affected Laws: An act to amend Section 480 of the Business and Professions Code, relating to professions and vocations.

Staff Comment: The Author is the Sponsor of this bill. According to the Author, SB 802 makes clarifying changes to ensure timely communication with applicants for licensure to provide more certainty in their path toward employability and participating in the economic marketplace.

Board staff does not believe the provisions of this bill would impact the Board's workload or operations as we already notify applicants within 30 days if we are denying their application.

At its April 13, 2023, meeting, the Board took a position of "Watch" on SB 802.

Staff Recommendation: No action needed at this time.

Introduced by Senator Roth

February 17, 2023

An act to amend Section 480 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 802, as introduced, Roth. Licensing boards: disqualification from licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified. Existing law requires a board to notify the applicant in writing, as specified, if a board decides to deny an application for licensure based solely or in part on the applicant's conviction history.

If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, this bill would require a board to notify the applicant in writing within 30 days after a decision is made, 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 480 of the Business and Professions Code
- 2 is amended to read:

1 480. (a) Notwithstanding any other provision of this code, a
2 board may deny a license regulated by this code on the grounds
3 that the applicant has been convicted of a crime or has been subject
4 to formal discipline only if either of the following conditions are
5 met:

6 (1) The applicant has been convicted of a crime within the
7 preceding seven years from the date of application that is
8 substantially related to the qualifications, functions, or duties of
9 the business or profession for which the application is made,
10 regardless of whether the applicant was incarcerated for that crime,
11 or the applicant has been convicted of a crime that is substantially
12 related to the qualifications, functions, or duties of the business or
13 profession for which the application is made and for which the
14 applicant is presently incarcerated or for which the applicant was
15 released from incarceration within the preceding seven years from
16 the date of application. However, the preceding seven-year
17 limitation shall not apply in either of the following situations:

18 (A) The applicant was convicted of a serious felony, as defined
19 in Section 1192.7 of the Penal Code or a crime for which
20 registration is required pursuant to paragraph (2) or (3) of
21 subdivision (d) of Section 290 of the Penal Code.

22 (B) The applicant was convicted of a financial crime currently
23 classified as a felony that is directly and adversely related to the
24 fiduciary qualifications, functions, or duties of the business or
25 profession for which the application is made, pursuant to
26 regulations adopted by the board, and for which the applicant is
27 seeking licensure under any of the following:

28 (i) Chapter 6 (commencing with Section 6500) of Division 3.

29 (ii) Chapter 9 (commencing with Section 7000) of Division 3.

30 (iii) Chapter 11.3 (commencing with Section 7512) of Division
31 3.

32 (iv) Licensure as a funeral director or cemetery manager under
33 Chapter 12 (commencing with Section 7600) of Division 3.

34 (v) Division 4 (commencing with Section 10000).

35 (2) The applicant has been subjected to formal discipline by a
36 licensing board in or outside California within the preceding seven
37 years from the date of application based on professional misconduct
38 that would have been cause for discipline before the board for
39 which the present application is made and that is substantially
40 related to the qualifications, functions, or duties of the business or

1 profession for which the present application is made. However,
2 prior disciplinary action by a licensing board within the preceding
3 seven years shall not be the basis for denial of a license if the basis
4 for that disciplinary action was a conviction that has been dismissed
5 pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425
6 of the Penal Code or a comparable dismissal or expungement.
7 Formal discipline that occurred earlier than seven years preceding
8 the date of application may be grounds for denial of a license only
9 if the formal discipline was for conduct that, if committed in this
10 state by a physician and surgeon licensed pursuant to Chapter 5
11 (commencing with Section 2000) of Division 2, would have
12 constituted an act of sexual abuse, misconduct, or relations with
13 a patient pursuant to Section 726 or sexual exploitation as defined
14 in subdivision (a) of Section 729.

15 (b) Notwithstanding any other provision of this code, a person
16 shall not be denied a license on the basis that the person has been
17 convicted of a crime, or on the basis of acts underlying a conviction
18 for a crime, if that person has obtained a certificate of rehabilitation
19 under Chapter 3.5 (commencing with Section 4852.01) of Title 6
20 of Part 3 of the Penal Code, has been granted clemency or a pardon
21 by a state or federal executive, or has made a showing of
22 rehabilitation pursuant to Section 482.

23 (c) Notwithstanding any other provision of this code, a person
24 shall not be denied a license on the basis of any conviction, or on
25 the basis of the acts underlying the conviction, that has been
26 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42,
27 or 1203.425 of the Penal Code, or a comparable dismissal or
28 expungement. An applicant who has a conviction that has been
29 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42
30 of the Penal Code shall provide proof of the dismissal if it is not
31 reflected on the report furnished by the Department of Justice.

32 (d) Notwithstanding any other provision of this code, a board
33 shall not deny a license on the basis of an arrest that resulted in a
34 disposition other than a conviction, including an arrest that resulted
35 in an infraction, citation, or a juvenile adjudication.

36 (e) A board may deny a license regulated by this code on the
37 ground that the applicant knowingly made a false statement of fact
38 that is required to be revealed in the application for the license. A
39 board shall not deny a license based solely on an applicant's failure

1 to disclose a fact that would not have been cause for denial of the
2 license had it been disclosed.

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

5 (1) A board issuing a license pursuant to Chapter 3 (commencing
6 with Section 5500), Chapter 3.5 (commencing with Section 5615),
7 Chapter 10 (commencing with Section 7301), Chapter 20
8 (commencing with Section 9800), or Chapter 20.3 (commencing
9 with Section 9880), of Division 3, or Chapter 3 (commencing with
10 Section 19000) or Chapter 3.1 (commencing with Section 19225)
11 of Division 8 may require applicants for licensure under those
12 chapters to disclose criminal conviction history on an application
13 for licensure.

14 (2) Except as provided in paragraph (1), a board shall not require
15 an applicant for licensure to disclose any information or
16 documentation regarding the applicant's criminal history. However,
17 a board may request mitigating information from an applicant
18 regarding the applicant's criminal history for purposes of
19 determining substantial relation or demonstrating evidence of
20 rehabilitation, provided that the applicant is informed that
21 disclosure is voluntary and that the applicant's decision not to
22 disclose any information shall not be a factor in a board's decision
23 to grant or deny an application for licensure.

24 (3) If a board decides to deny an application for licensure based
25 solely or in part on the applicant's conviction history, the board
26 shall notify the applicant in ~~writing~~ *writing, within 30 days after*
27 *a decision is made*, of all of the following:

28 (A) The denial or disqualification of licensure.

29 (B) Any existing procedure the board has for the applicant to
30 challenge the decision or to request reconsideration.

31 (C) That the applicant has the right to appeal the board's
32 decision.

33 (D) The processes for the applicant to request a copy of the
34 applicant's complete conviction history and question the accuracy
35 or completeness of the record pursuant to Sections 11122 to 11127
36 of the Penal Code.

37 (g) (1) For a minimum of three years, each board under this
38 code shall retain application forms and other documents submitted
39 by an applicant, any notice provided to an applicant, all other

1 communications received from and provided to an applicant, and
2 criminal history reports of an applicant.

3 (2) Each board under this code shall retain the number of
4 applications received for each license and the number of
5 applications requiring inquiries regarding criminal history. In
6 addition, each licensing authority shall retain all of the following
7 information:

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

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

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

14 (D) The final disposition and demographic information,
15 consisting of voluntarily provided information on race or gender,
16 of any applicant described in subparagraph (A), (B), or (C).

17 (3) (A) Each board under this code shall annually make
18 available to the public through the board's internet website and
19 through a report submitted to the appropriate policy committees
20 of the Legislature deidentified information collected pursuant to
21 this subdivision. Each board shall ensure confidentiality of the
22 individual applicants.

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

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

27 (i) This section does not in any way modify or otherwise affect
28 the existing authority of the following entities in regard to
29 licensure:

30 (1) The State Athletic Commission.

31 (2) The Bureau for Private Postsecondary Education.

32 (3) The California Horse Racing Board.

O

SB 818 (Roth, D-Riverside)

Department of Consumer Affairs: terms of office: fingerprinting.

Status/History: 7/11/2023 – First hearing set for 7/11/2023 canceled at the request of the author.

Location: 7/11/2023 – Assembly Committee on Business and Professions

Introduced: 2/17/2023

Board Position: Watch (as of 4/13/2023)

Board Staff Analysis: 5/24/2023

Bill Summary: This bill makes non-substantive changes to Business and Professions Code sections 130 and 144 to update the names of various boards.

Affected Laws: An act to amend Sections 130 and 144 of the Business and Professions Code, relating to consumer affairs.

Staff Comment: Section 130 lists boards whose member terms end on June 1. This Board is included in this list under its previous name; this bill would update the name of the Board to its current name.

Business and Professions Code section 6712, which is part of the Professional Engineers Act, specifies that the terms of the members of this Board end on June 30. Section 6712 was amended in 2006 during the Sunset Review process. From information Board staff has been able to find, the intent at that time was to remove the Board from the list in Section 130 so that there would not be confusion regarding the end dates of Board Member terms. For some reason, this change was not made; it is believed that this section was overlooked. However, the appointing authorities (Governor, Assembly, and Senate) are aware that our Board Member terms end on June 30, rather than June 1, since it is specified in the Professional Engineers Act. Board staff has discussed this issue with the Author's staff and requested that the Board be removed from the list altogether. The Author's staff indicated they will consider this request.

At its April 13, 2023, meeting, the Board took a position of "Watch" on SB 818.

Staff Recommendation: No action needed at this time.

Introduced by Senator Roth

February 17, 2023

An act to amend Sections 130 and 144 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 818, as introduced, Roth. Department of Consumer Affairs: terms of office: fingerprinting.

Existing law establishes the Department of Consumer Affairs and sets forth the various boards and other entities under its jurisdiction.

Existing law changed the name of the Board for Professional Engineers and Land Surveyors to the Board of Professional Engineers, Land Surveyors, and Geologists. Existing law changed the name of the Naturopathic Medicine Committee to the California Board of Naturopathic Medicine.

This bill would make conforming changes related to these name changes.

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 130 of the Business and Professions Code
- 2 is amended to read:
- 3 130. (a) Notwithstanding any other law, the term of office of
- 4 any member of an agency designated in subdivision (b) shall be
- 5 for a term of four years expiring on June 1.
- 6 (b) Subdivision (a) applies to the following boards or
- 7 committees:

- 1 (1) The Medical Board of California.
- 2 (2) The Podiatric Medical Board of California.
- 3 (3) The Physical Therapy Board of California.
- 4 (4) The Board of Registered Nursing, except as provided in
- 5 subdivision (c) of Section 2703.
- 6 (5) The Board of Vocational Nursing and Psychiatric
- 7 Technicians.
- 8 (6) The California State Board of Optometry.
- 9 (7) The California State Board of Pharmacy.
- 10 (8) The Veterinary Medical Board.
- 11 (9) The California Architects Board.
- 12 (10) The Landscape Architect Technical Committee.
- 13 (11) The Board for Professional ~~Engineers and Land Surveyors.~~
- 14 *Engineers, Land Surveyors, and Geologists.*
- 15 (12) The Contractors State License Board.
- 16 (13) The Board of Behavioral Sciences.
- 17 (14) The Court Reporters Board of California.
- 18 (15) The State Athletic Commission.
- 19 (16) The Osteopathic Medical Board of California.
- 20 (17) The Respiratory Care Board of California.
- 21 (18) The Acupuncture Board.
- 22 (19) The Board of Psychology.
- 23 (20) The Structural Pest Control Board.
- 24 SEC. 2. Section 144 of the Business and Professions Code is
- 25 amended to read:
- 26 144. (a) Notwithstanding any other law, an agency designated
- 27 in subdivision (b) shall require an applicant to furnish to the agency
- 28 a full set of fingerprints for purposes of conducting criminal history
- 29 record checks. Any agency designated in subdivision (b) may
- 30 obtain and receive, at its discretion, criminal history information
- 31 from the Department of Justice and the United States Federal
- 32 Bureau of Investigation.
- 33 (b) Subdivision (a) applies to the following:
- 34 (1) California Board of Accountancy.
- 35 (2) State Athletic Commission.
- 36 (3) Board of Behavioral Sciences.
- 37 (4) Court Reporters Board of California.
- 38 (5) Dental Board of California.
- 39 (6) California State Board of Pharmacy.
- 40 (7) Board of Registered Nursing.

- 1 (8) Veterinary Medical Board.
- 2 (9) Board of Vocational Nursing and Psychiatric Technicians
- 3 of the State of California.
- 4 (10) Respiratory Care Board of California.
- 5 (11) Physical Therapy Board of California.
- 6 (12) Physician Assistant Board.
- 7 (13) Speech-Language Pathology and Audiology and Hearing
- 8 Aid Dispensers Board.
- 9 (14) Medical Board of California.
- 10 (15) California State Board of Optometry.
- 11 (16) Acupuncture Board.
- 12 (17) Cemetery and Funeral Bureau.
- 13 (18) Bureau of Security and Investigative Services.
- 14 (19) Division of Investigation.
- 15 (20) Board of Psychology.
- 16 (21) California Board of Occupational Therapy.
- 17 (22) Structural Pest Control Board.
- 18 (23) Contractors State License Board.
- 19 (24) ~~Naturopathic Medicine Committee.~~ *California Board of*
- 20 *Naturopathic Medicine.*
- 21 (25) Professional Fiduciaries Bureau.
- 22 (26) Board for Professional Engineers, Land Surveyors, and
- 23 Geologists.
- 24 (27) Podiatric Medical Board of California.
- 25 (28) Osteopathic Medical Board of California.
- 26 (29) California Architects Board, beginning January 1, 2021.
- 27 (30) Landscape Architects Technical Committee, beginning
- 28 January 1, 2022.
- 29 (31) Bureau of Household Goods and Services with respect to
- 30 household movers as described in Chapter 3.1 (commencing with
- 31 Section 19225) of Division 8.
- 32 (c) For purposes of paragraph (26) of subdivision (b), the term
- 33 “applicant” shall be limited to an initial applicant who has never
- 34 been registered or licensed by the board or to an applicant for a
- 35 new licensure or registration category.

O

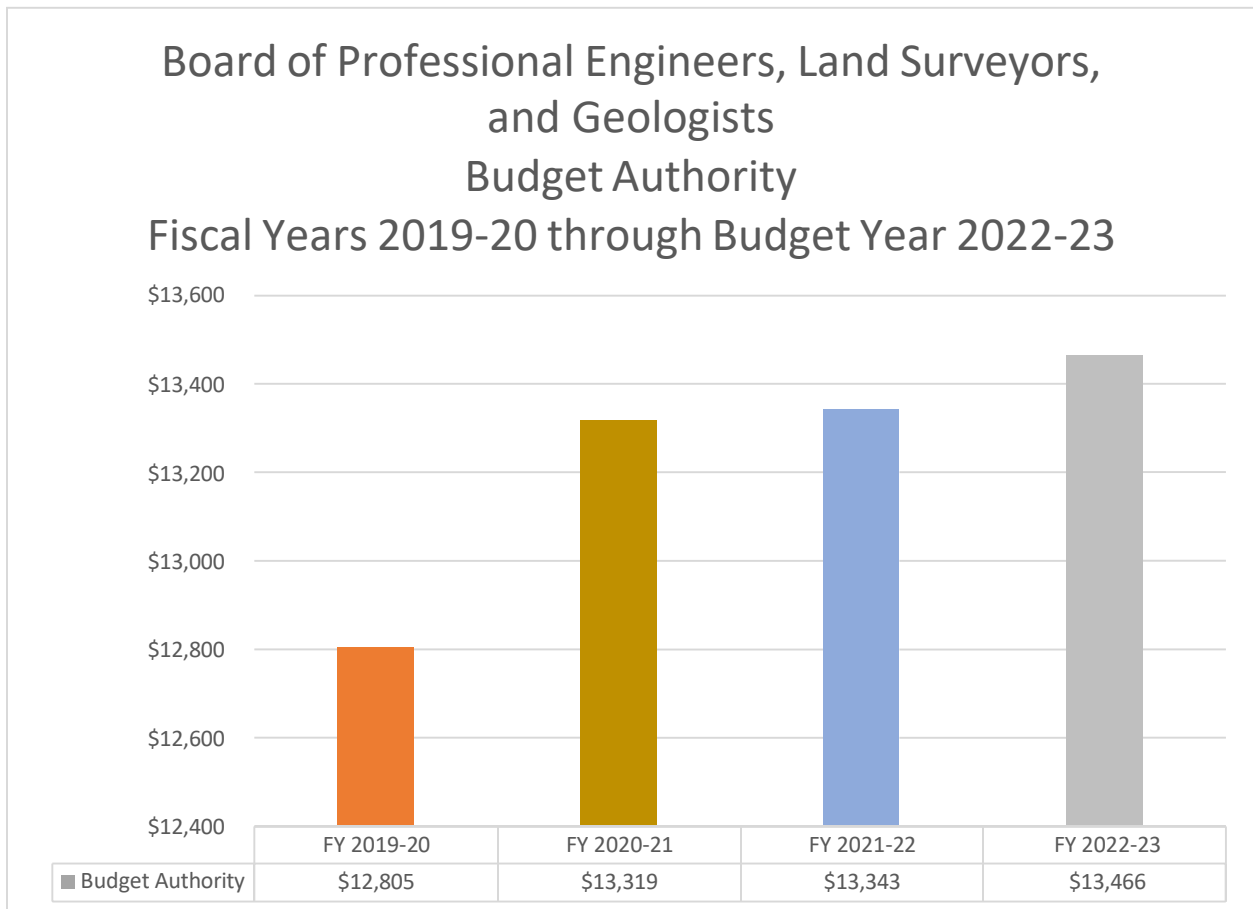
V. Administration

- A. Fiscal Year 2022/23 Budget Report
- B. License Renewal Notices Report (**Possible Action**)

FINANCIAL REPORT

BUDGET AUTHORITY

The Board’s Budget Authority for fiscal year (FY) 2022-23 is \$13,466,000 (1% increase over FY 2021-22). Board actual expenditures for FY 2021-22 were 90% of Budget Authority.



GUIDE TO READING THE REVENUE REPORT AND EXPENDITURE REPORT

Revenues

Fee increase effective January 1, 2021 has had a positive impact on revenues. Total revenue up \$1,276,880 (25%) over prior period.

Current Year Projections
Identifies the revenue amount that BPELSG projects for FY 21-22.

Revenue Category	PRIOR YEAR FY 2020-21 FM 4	CURRENT YEAR FY 2021-22 FM 4	CURRENT YEAR Projections
Delinquent Fees	\$38,696	↑ \$51,464	\$150,076
Other Regulatory Fees	\$32,130	↑ \$39,578	\$102,138
Other Regulatory Licenses & Permits	\$297,960	↑ \$645,747	\$1,743,588
Other Revenue	\$20,822	↓ \$10,486	\$51,328
Renewal Fees	\$3,415,953	↑ \$4,335,166	\$10,269,519
Total	\$3,805,560	↑ \$5,082,440	\$12,316,649

Revenue Category
Provides the name of the line item where our revenues occur.

Arrows
These indicate a change in the current year over prior year. Up/green arrows indicate an increase and down/red arrows indicate a decrease over the prior period.

Current Year
Revenue collected up to FM 4 in October of 2021.

Prior Year
Revenue collected up to FM 4 in October of 2020.

CY 21-22 YTD + Encumbrance
Provides a FM 4 total of YTD Actual and Encumbrance.

Department of Consumer Affairs
Expenditure Projection Report

Fiscal Month: 4
Fiscal Year: 2021 - 2022
Run Date: 12/09/2021

Fiscal Month
Identifies the expenditures up to October 2021
Fiscal Year
Identifies the current year
Run Date
Identifies the date this report was pulled from QBIRT

Governor's Budget
Publication that the Governor presents which identifies the current year authorized expenditures.

PERSONAL SERVICES

Notes	Fiscal Code	PY 20-21 FM 4 YTD + Encumbrance	CY 21-22 FM 4 YTD + Encumbrance	Governor's Budget	Percent of Governor's Budget Spent	Projections to Year End
1	5100 PERMANENT POSITIONS	\$955,435	\$1,077,755	\$3,425,000	31%	\$3,389,367
	5100 TEMPORARY POSITIONS	\$35,155	\$45,403	\$232,000	20%	\$130,000
	5105-5108 PER DIEM, OVERTIME, & LUMP SUM	\$600	\$38,876	\$36,000	108%	\$48,476
	5150 STAFF BENEFITS	\$559,421	\$618,030	\$1,703,000	36%	\$1,812,693
	PERSONAL SERVICES	\$1,550,611	\$1,780,065	\$5,396,000	33%	\$5,380,536

OPERATING EXPENSES & EQUIPMENT

2	5301 GENERAL EXPENSE	\$23,898	\$22,392	\$32,000	70%	\$71,871
3	5302 PRINTING	\$24,766	\$69,808	\$26,000	268%	\$33,966
	5304 COMMUNICATIONS	\$4,452	\$3,384	\$15,000	23%	\$20,777

Object Description
Provides the name of the line item where our expenditures occur.

PY 20-21 YTD + Encumbrance
Provides a FM 4 total of YTD Actual and Encumbrance.

Percent of Governor's Budget spent
Identifies the percentage spent at CY 21-22 FM 4 according to the Governor's Budget.

Projections to Year End
Identifies the expenditure amount that BPELSG projects for FY 21-22.

	OPERATING EXPENSES & EQUIPMENT	\$3,239,095	\$2,474,539	\$6,831,000	36%	\$5,308,996
	OVERALL TOTALS	\$4,789,706	\$4,254,604	\$12,227,000	35%	\$10,689,532

*Does not include additional Architecture Revolving Fund Expenses TBD

SURPLUS/(DEFICIT): 13%

Surplus/(Deficit)
Identifies if we have higher revenue and lower expenses (Surplus) or higher expenses and lower revenue (Deficit). This percentage is calculated using (Governor's Budget-Projections to Year End)/ Governor's Budget.

FINANCIAL REPORT

FISCAL YEAR 2022-23 FISCAL MONTH 11 FINANCIAL STATEMENT

Revenues

Fee increase effective January 1, 2021, and significant increase in initial application volume has had a positive impact on revenues. Total revenue down \$1,185,201 (-11%) over prior year. Current Fiscal Year 2022-23 is a low volume year for renewals.

Revenue Category	PRIOR YEAR FY 2021-22 FM 11	CURRENT YEAR FY 2022-23 FM 11	CURRENT YEAR FY 2022-23 PROJECTION
Delinquent Fees	\$133,365	\$152,345	\$150,440
Other Regulatory Fees	\$123,215	\$75,403	\$117,586
Other Regulatory Licenses & Permits	\$1,896,218	\$1,751,102	\$1,638,188
Other Revenue	\$27,775	\$111,746	\$16,156
Renewal Fees	\$10,098,691	\$9,003,468	\$9,081,441
Total	\$12,279,264	\$11,094,063	\$11,003,811

There was a significant increase in FY 2021-22 initial application volume and revenue over prior years. The increase in revenue is due to the fee increase effective January 2021, and the uptick in volume of initial applications received. The current year projections do not assume the increase in volume will continue to trend up and the projections are based on the average of applications received over a five-year lookback period.

Reimbursements totaled \$102,839 including \$1,925 in Reimbursement-Private Sectors, \$58,359 in Background Checks, and \$42,555 in Cost Recovery. Background check expenses are included in the General Expense category.

FY 2021-22 includes \$2,650,380 Revenue in advance. FY 2022-23 includes \$2,301,833 Revenue in advance.

**Department of Consumer Affairs
Expenditure Projection Report**

Fiscal Month: 11

Fiscal Year: 2022 - 2023

Run Date: 06/19/2023

PERSONAL SERVICES

Notes	Fiscal Code	PY 21-22 FM 11 YTD + Encumbrance	CY 22-23 FM 11 YTD + Encumbrance	Governor's Budget	Percent of Governor's Budget Spent	Projections to Year End
1	5100 PERMANENT POSITIONS	\$3,032,632	\$3,150,092	\$3,701,000	85%	\$3,481,011
	5100 TEMPORARY POSITIONS	\$120,946	\$120,652	\$232,000	52%	\$122,000
	5105-5108 PER DIEM, OVERTIME, & LUMP SUM	\$46,376	\$20,481	\$36,000	57%	\$37,489
	5150 STAFF BENEFITS	\$1,716,348	\$1,909,582	\$1,935,000	99%	\$2,017,686
	PERSONAL SERVICES	\$4,916,304	\$5,200,807	\$5,904,000	88%	\$5,658,186

OPERATING EXPENSES & EQUIPMENT

2	5301 GENERAL EXPENSE	\$73,725	\$75,472	\$32,000	236%	\$80,000
3	5302 PRINTING	\$88,633	\$99,920	\$26,000	384%	\$100,000
	5304 COMMUNICATIONS	\$14,031	\$12,452	\$15,000	83%	\$18,000
	5306 POSTAGE	\$25,399	\$1,219	\$36,000	3%	\$26,000
	5308 INSURANCE	\$83	\$65	\$0	0%	\$65
	53202-204 IN STATE TRAVEL	\$5,196	\$29,334	\$22,000	133%	\$36,500
	53206-208 OUT OF STATE TRAVEL	\$1,199	\$0	\$0	0%	\$2,000
	5322 TRAINING	\$2,000	\$0	\$15,000	0%	\$0
4	5324 FACILITIES*	\$478,507	\$496,423	\$377,000	132%	\$577,632
5	53402-53403 C/P SERVICES (INTERNAL)	\$548,953	\$585,344	\$871,000	67%	\$731,546
6	53404-53405 C/P SERVICES (EXTERNAL)	\$1,719,548	\$2,069,517	\$3,280,000	63%	\$2,107,730
7	5342 DEPARTMENT PRORATA	\$1,939,000	\$1,968,000	\$1,968,000	100%	\$1,968,000
8	5342 DEPARTMENTAL SERVICES	\$19,420	\$13,391	\$27,000	50%	\$20,000
	5344 CONSOLIDATED DATA CENTERS	\$11,359	\$26,372	\$22,000	120%	\$26,372
	5346 INFORMATION TECHNOLOGY	\$170,271	\$39,759	\$165,000	24%	\$60,065
	5362-5368 EQUIPMENT	\$53,080	\$99,833	\$0	0%	\$109,000
	5390 OTHER ITEMS OF EXPENSE	\$0	\$12	\$3,000	0%	\$50
	54 SPECIAL ITEMS OF EXPENSE	\$2,586	\$659	\$0	0%	\$3,000
	OPERATING EXPENSES & EQUIPMENT	\$5,152,990	\$5,517,770	\$6,859,000	80%	\$5,865,960
	TOTALS	\$10,069,293	\$10,718,577	\$12,763,000	84%	\$11,524,147
9	4840-4850 REIMBURSEMENTS					\$108,200
	OVERALL TOTALS & REIMBURSEMENTS					\$11,415,947

*Includes additional \$75k Architecture Revolving Fund Expenses

**Board for Professional Engineers, Land Surveyors, and Geologists
Staff Report**

Subject: Status Update on Print Vendor Outage Affecting License Renewals

This report is intended to provide Board Members with an update and impact analysis of a recent printer outage affecting the printing and mailing of BPELSG license renewal reminder notices, delinquency license notices and paper pocket certificates.

The Department of Consumer Affairs contracts with an outside vendor to provide commercial print and mail services for Boards using Consumer Affairs Systems (CAS) as the system of record. The vendor currently prints and mails license renewal reminder notices, delinquent license reminder notices and paper pocket certificates to Board licensees.

The current print vendor will not be pursuing an extension or competing for add-on print and mail contracts and the new vendor that has been selected to succeed the current vendor is having technical difficulties in managing the print jobs from CAS as it is a mainframe system and considered outdated. DCA is actively encouraging the Board to consider digital and electronic means of communicating important licensing information, including renewal reminder notices, delinquency notices and pocket certificates or transaction receipts.

License Renewal Overview

The application fee for first-time licensure for Engineers and Land Surveyors includes licensure through the first renewal quarter after the license is issued. Approximately one (1) to two (2) months after being notified of licensure, first-time licensees will receive a renewal notice for payment of the full renewal fee. Once renewed, the license will be valid for an additional two (2) years. Professional Engineers and Land Surveyors are on bi-annual quarterly renewal cycles ending March 31, June 30, September 30, and December 31. The largest quarters are June (30% of active licenses renew) and September (26% active licenses renew).

The application fee for first-time licensure for Geologists and Geophysicists includes licensure through the end of the licensee's birth month after the license is issued. Approximately one (1) to two (2) months prior to the first-time licensee's birth month, a renewal notice for payment of the full renewal fee will be issued. Once renewed, the license will be due for renewal on a two (2) year cycle.

Historically, renewal reminder notices are scheduled to be printed and mailed sixty (60) days prior to the license expiration date. The Board averaged 48k license renewal transactions per year over the last five fiscal years. The largest volume of renewals in any given cycle is for licenses expiring June 30. The Board's printing and mailing costs for license renewal reminder notices, delinquent license reminder notices, and paper pocket certificates has averaged \$50k per year over the past five fiscal years. The projection for print and mail expenses and encumbrances for FY 22-23 is \$93k.

BPELSG Connect went live for license renewals in January 2021 and there was an immediate and significant adoption of the online platform. The current BPELSG Connect renewal transaction functionality is limited to credit card transactions. License renewal payments processed at the Board are cashiered in the Application Tracking System (ATS) and the transactions are also manually entered into the CAS system. This legacy process involves two or more staff as internal controls require the manual entry of the payments be completed by two different staff members. Renewal payments made by credit card in BPELSG Connect are automated and entered to CAS in a batch process.

Currently, 80% of active (those eligible for renewal) licenses have BPELSG Connect profiles linked and licensees may elect to renew their license by credit card in BPELSG Connect. These licensees also receive license renewal reminder notifications in their BPELSG Connect user dashboard sixty (60) days before their licenses expire. Email addresses are recorded in BPELSG Connect profiles and in some CAS records, although email addresses in CAS records may not be valid or active.

License Status	Active and Delinquent (Renewable) Licenses			
	Total Licenses	Licenses in BPELSG Connect	Licenses in CAS Only	Licenses in CAS Only with Email Address
Active	107,423	85,968	21,455	7,574
Delinquent	11,005	500	10,505	3,455
Total	118,428	86,468	31,960	11,029

* Source QBIRT ad hoc Connect and CAS license reports run June 30, 2023

The Professional Engineers Act Article 7, Section 6795.1 Notice of pending expiration; contents required the Board to mail licensees renewal application forms within 60 to 90 days of the license expiration date. This section was repealed in 2022 and in Spring 2022 the Board changed the reminder renewal notices to include instruction for licensees to create BPELSG Connect accounts and renew their licenses online and discontinued the printing of coupons for payment transmittal. As expected, this increased online participation for

renewal transactions. Online participation for renewal transactions this fiscal year to date is 90%.

Fiscal Year 2022/23 Renewal Transaction Volume					
Payment Received Date	Processed at Board	Coupons Processed at DCA	Online Processed via Connect	Total Renewal Transactions	Online Participation
Jul	145	12	1,064	1,221	87%
Aug	973		7,400	8,373	88%
Sep	453	3	3,912	4,368	90%
Oct	86	3	1,020	1,109	92%
Nov	700	2	5,733	6,435	89%
Dec	508	4	3,894	4,406	88%
Jan	139	4	2,449	2,592	94%
Feb	623		4,320	4,943	87%
Mar	539		2,525	3,064	82%
Apr	67	1	814	882	92%
May	298	2	6,238	6,538	95%
Jun	978	3	8,212	9,193	91%
Total	5,509	34	47,581	53,124	90%

*Source: QBIRT Report 'CAS Renewal Payments Received' run on July 11, 2023

Annual Renewal Transaction Volume and Online Participation					
Payment Received Date	Processed at Board	Coupons Processed at DCA	Processed Online	Total Renewal Transactions	Online Participation
FY 22-23	5,509	34	47,581	53,124	90%
FY 21-22	4,017	14,761	36,794	55,572	66%
FY 20-21*	3,770	21,222	28,589	53,581	53%
FY 19-20	4,083	26,294	25,906	56,283	46%
FY 18-19	3,943	26,923	9,942	40,808	24%

Source: QBIRT 'CAS Renewal Payments Received' run July 11, 2023

* BPELSG Connect went live for renewal transactions in January 2021

Effective January 1, 2023, new laws have been enacted that require applicants and licensees to provide the Board with a valid email address (if they have one) and to notify the Board within thirty (30) days of any change of their email address. Sections 6767, 7856, and 8753 have been added to the Professional Engineers Act, the Geologist and Geophysicist Act, and the Professional Land Surveyors' Act, respectively.

Applicants are required to initially provide their email address at the time of application; licensees are required to initially provide their email address at the time of renewal. Applicants and licensees are also required to notify the Board within thirty (30) days of any change of their email address. These sections do not require applicants and licensees to obtain an email address if they do not already have one. However, email is the preferred method of communication because it allows for more timely communication regarding application and license status.

Although the Board has begun to require email addresses for applicants and licensees, there exist a substantial number of records of active licensees in the CAS system of record that do not contain an email address. Further, it is unclear if those addresses have been updated in response to the changes effective January 1, 2023.

Printer Outage Status and Impact

On Thursday, April 13, 2023, the DCA outside print vendor reported an outage and total stoppage of print work. The printing was resumed on Friday, May 12, 2023, and the vendor began printing the files from the backlog and the current print jobs simultaneously. At the time of the first outage there were approximately 17,500 licensees with expiration dates of June 30, 2023. The Board was expecting the renewal reminder notices for this cohort to be printed and mailed around May 1, 2023; however, these licensees did not receive their reminder notices until after the first week in June 2023.

Board staff monitored the status of the outage with alerts from DCA OIS and on May 2, 2023, when there was no timeframe on the resolution of the outage, the Board posted the following message on the Board's website, sent an email notice to subscribers to the Board's website and posted the message on the Board's Facebook and Twitter social media accounts:

ANNOUNCED MAY 2, 2023: The Board has been alerted to a technical outage resulting in a delay in the mailing of licensee renewal reminder notices impacting the June 30, 2023, renewal cycle. Renewal notices are typically sent to the licensee address of record approximately 60 days before expiration date. HOWEVER, the renewal reminder notice is not necessary to renew a license. Licensees who do not receive a renewal notice can use [BPELSG Connect](#) to submit license renewals. Licensees are eligible to renew a license if it expires within the next 60 days. It is the licensee's responsibility to ensure that the license is renewed within the

statutorily required timeframe regardless of receiving a renewal reminder by mail or not.

Use [BPELSG Connect](#) to complete your license renewal: You are eligible to renew your license in [BPELSG Connect](#) if your license expires within the next 60 days, or if your license has been delinquent less than two (2) years. If your license has been delinquent for more than two (2) years you will not be able to use BPELSG Connect, and you will need to submit your renewal on the [License Renewal Request Form](#).

See [BPELSG License Renewal Information](#) for more information related to license renewal requirements and instructions for creating a [BPELSG Connect](#) account and renewing a license online.

Board staff continued to monitor the outage, respond to an influx of licensee phone calls and email requests for information related to the delay in the printed renewal reminder notices and began to assess the status of the impact in the renewal transaction revenue. May 2023 saw a 26% decrease in renewal transaction volume as compared to the comparable prior year (May 2021) volume. While the Board was expecting a change in the behavior of licensees who adopted the platform (pushing a higher volume of renewal transactions closer to the expiration date due to the improved efficiency of the automated credit card transactions), this was of concern.

Although the volumes were higher in June 2023 as compared to June 2021, there is still a decrease in the overall volumes of renewal transactions for the full fiscal year to date. Board staff continue to monitor the overall transaction volumes.

Between May 5, 2023, and June 9, 2023, the print vendor continued to work on the backlog and current files and were able to print and mail batched print jobs that were sent for printing between April 13, 2023 – May 5, 2023, and between May 15, 2023 - June 8, 2023. Files that were sent to the printer between May 5, 2023, and May 15, 2023, were caught in a second printer outage.

On June 12, 2023, a second printer outage was announced. The outage lasted through June 19, 2023, and the printer resumed printing the backlog files on Tuesday, June 20, 2023. Board staff posted the following message on the Board's website, sent an email notice to subscribers to the Board's website and posted the message on the Board's Facebook and Twitter social media accounts:

ANNOUNCED JUNE 14, 2023: The Board has been alerted to another technical outage resulting in a delay in the mailing of licensee renewal

reminder notices and pocket certificates. Renewal notices are typically sent to the licensee address of record approximately 60 days before expiration date. HOWEVER, the renewal reminder notice is not necessary to renew a license. Licensees who do not receive a renewal notice can use [BPELSG Connect](#) to submit license renewals. Licensees are eligible to renew a license if it expires within the next 60 days. It is the licensee's responsibility to ensure that the license is renewed within the statutorily required timeframe regardless of receiving a renewal reminder by mail or not.

Use [BPELSG Connect](#) to complete your license renewal: You are eligible to renew your license in [BPELSG Connect](#) if your license expires within the next 60 days, or if your license has been delinquent less than two (2) years. If your license has been delinquent for more than two (2) years you will not be able to use BPELSG Connect, and you will need to submit your renewal on the [License Renewal Request Form](#).

See [BPELSG License Renewal Information](#) for more information related to license renewal requirements and instructions for creating a [BPELSG Connect](#) account and renewing a license online.

Department of Consumer Affairs maintains an online [DCA LICENSE SEARCH](#) tool for use in verifying the status of a license. Use this online search tool to verify a license issued by the Department of Consumer Affairs (DCA) for the professions listed under license type. Each license record will reflect if a license is current, expired, or has been subject to disciplinary action like suspension or revocation. Licensees are encouraged to either use [BPELSG Connect](#) or the [DCA LICENSE SEARCH](#) tool to verify the status of their license and/or receipt and processing of their renewal payments.

As of June 29, 2023, the print vendor has completely caught up in printing the backlog from May 2023 – June 12, 2023.

The biggest impact on licensees is for those with an expiration date of June 30, 2023 (approximately 17,500). As of June 30, 2023, 83% (14,481) of those affected had renewed their licenses. Renewal notices for this group were printed and mailed between 10 and 44 days after the expected May 1, 2023, mail date. On June 29, 2023 the print vendor confirmed that all of the May 2023 print jobs have been printed and mailed. There were 3,445 licensees who were caught in the first and second outages who are getting the renewal reminder notices mailed to them days before the expiration date and have either a sixty (60) day or thirty (30) day grace period before they will incur delinquency fees. No licensee may practice while their license is expired and delinquent. There remain

approximately 2,994 licenses which expired as of June 30, 2023; however, licensees may continue to renew their licenses via BPELSG Connect and this is subject to change.

Additional impacts are related to printing and mailing of paper pocket certificates that are mailed out as receipt of payment to licensees once their renewal transaction has been processed. A large portion of the pocket certificates are caught in the backlog. The printer announced June 29, 2023, that all print jobs sent from the beginning of the outage (April 13, 2023) through June 12, 2023, had been printed and mailed. Any renewal transactions that were processed after June 12, 2023, are still pending and in the backlog. There are approximately 4,800 licensees who are pending the printing/mailing of the pocket certificates as of June 30, 2023.

In July and August 2023, there are an additional 526 licenses that will expire. It is expected these reminder renewal notices have been printed and mailed.

In September 2023 an additional 14,691 licenses are due to expire and/or be renewed. The reminder notices for this cohort are expected to be mailed on or around August 1, 2023. It is uncertain at this time if the print vendor will be caught up on the backlog and able to print these renewal reminder notices timely. Board staff are continuing to monitor the situation and updates from DCA OIS.

Staff Recommendations

Based on the operational issues posed by these outages, and the adoption of BPELSG Connect by a significant portion of the active licensee population, Board staff recommend the Board discontinue the practice of printing renewal reminder notices, delinquent reminder notices and paper pocket certificates as early as January 1, 2024.

To adopt this recommendation:

1. BPELSG Connect will need to accommodate additional payment types for renewal transactions. The current process requires CAS to trigger the paper pocket certificates, but if we generate the paper pocket certificates (renewal transaction receipts) in BPELSG Connect we will be required to process the cash, check and money order payment types in BPELSG Connect to trigger BPELSG Connect to issue the pocket certificate receipt for licensees to access on a self-serve basis. Directing licensees to BPELSG Connect for self-service access to the pocket certificate will require licensees to create a BPELSG Connect account which will also serve as a method to deliver the license renewal reminders and

delinquent license renewal notices. There will be significant printing and mailing costs savings in using the BPELSG Connect platform to communicate important license renewal information to licensees.

2. A letter will need to be mailed to active licensees who do not have a BPELSG Connect account (approximately 21,723 licensees). There will be one-time costs associated with printing and mailing a letter.
3. BPELSG Connect receipts should be revised to capture important license information including the updated license expiration date.

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Based on the operational issues posed by these outages, and the adoption of BPELSG Connect by a significant portion of the active licensee population, Board staff recommend the Board discontinue the practice of printing renewal reminder notices, delinquent reminder notices and paper pocket certificates as early as January 1, 2024.

To adopt this recommendation:

1. BPELSG Connect will need to accommodate additional payment types for renewal transactions. The current process requires CAS to trigger the paper pocket certificates, but if we generate the paper pocket certificates (renewal transaction receipts) in BPELSG Connect we will be required to process the cash, check and money order payment types in BPELSG Connect to trigger BPELSG Connect to issue the pocket certificate receipt for licensees to access on a self-serve basis. Directing licensees to BPELSG Connect for self-service access to the pocket certificate will require licensees to create a BPELSG Connect account which will also serve as a method to deliver the license renewal reminders and

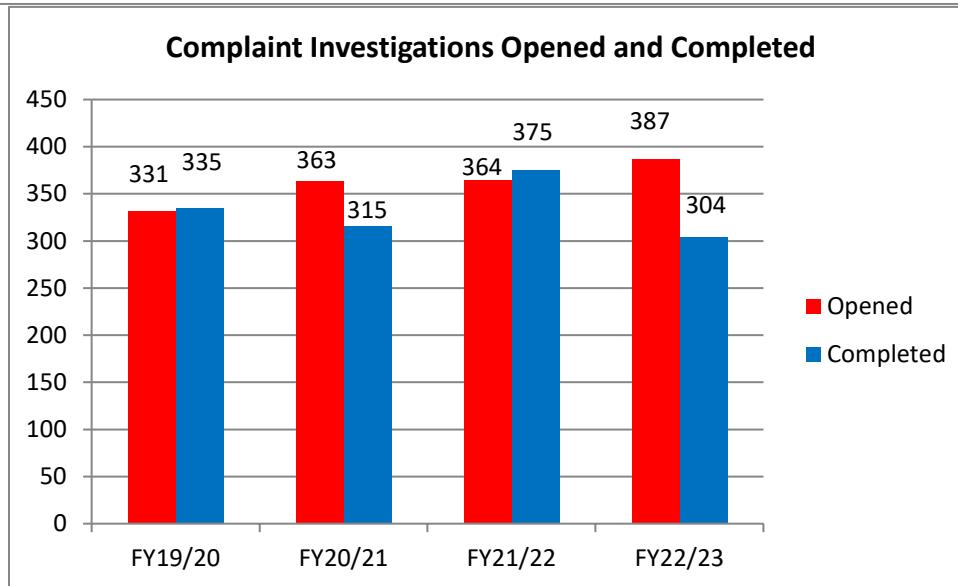
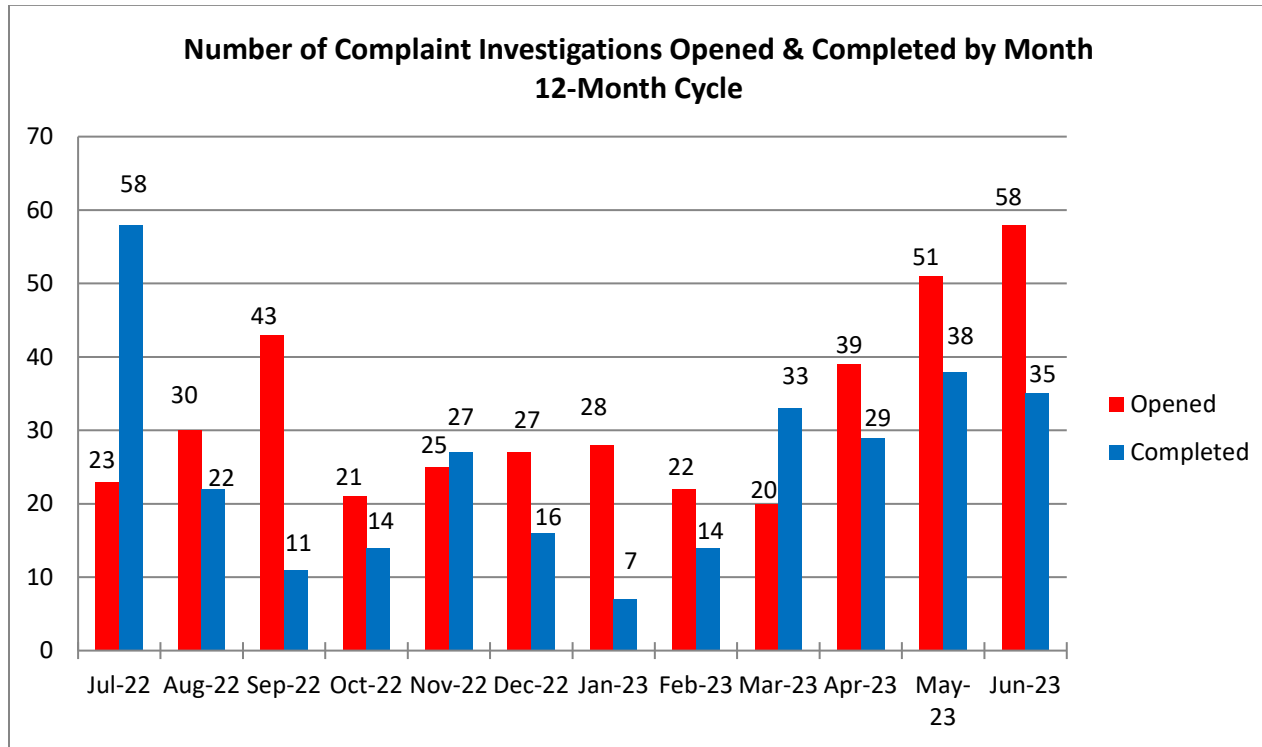
delinquent license renewal notices. There will be significant printing and mailing costs savings in using the BPELSG Connect platform to communicate important license renewal information to licensees.

2. A letter will need to be mailed to active licensees who do not have a BPELSG Connect account (approximately 21,723 licensees). There will be one-time costs associated with printing and mailing a letter.
3. BPELSG Connect receipts should be revised to capture important license information including the updated license expiration date.

VI. Enforcement

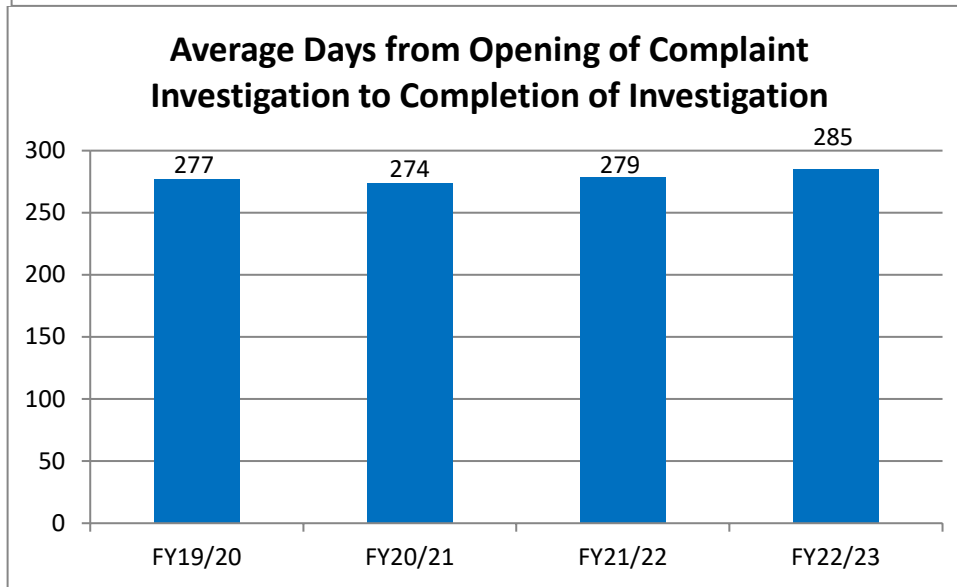
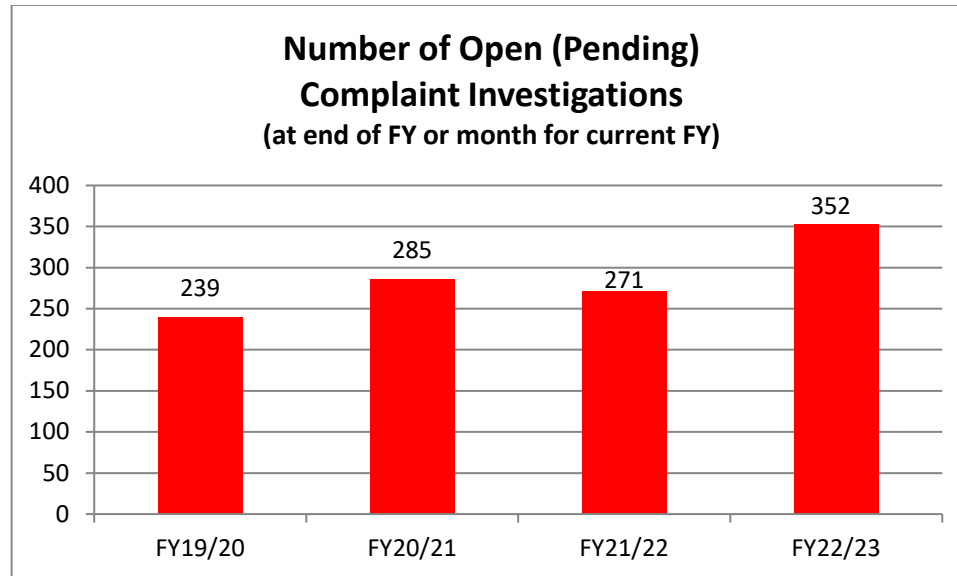
- A. Enforcement Statistical Reports
 - 1. Fiscal Year 2022/23 Update

Complaint Investigation Phase



NOTE: FY22/23 statistics are through June 30, 2023

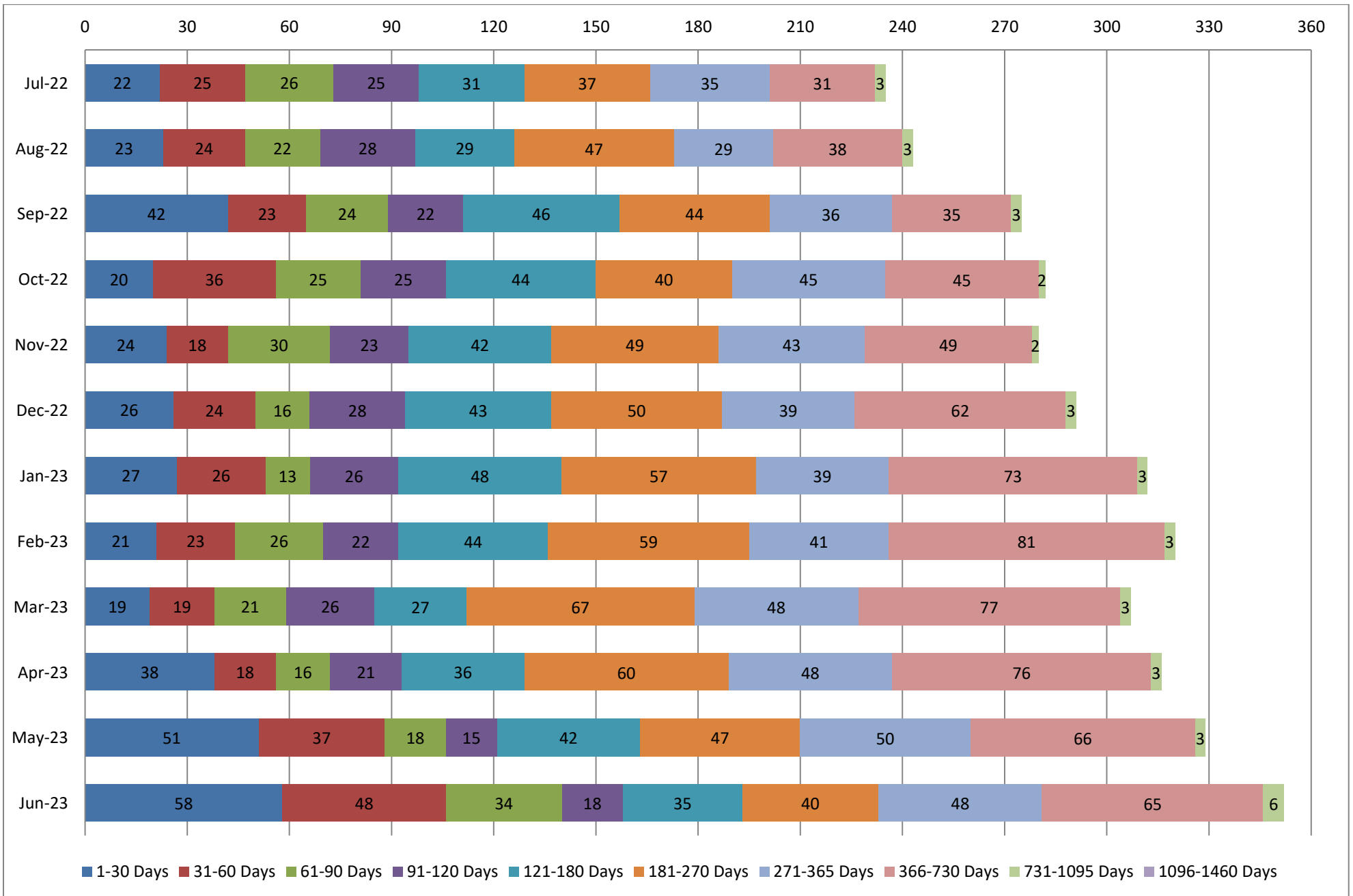
Complaint Investigation Phase



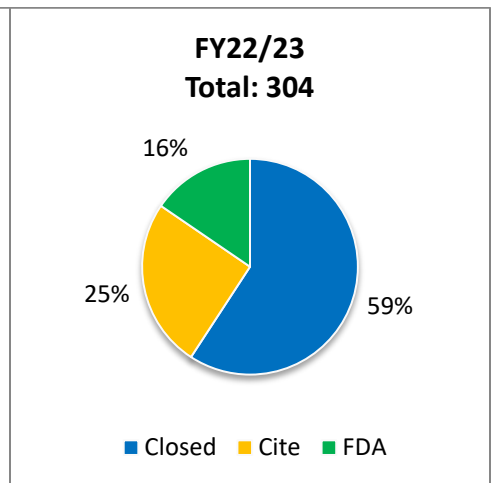
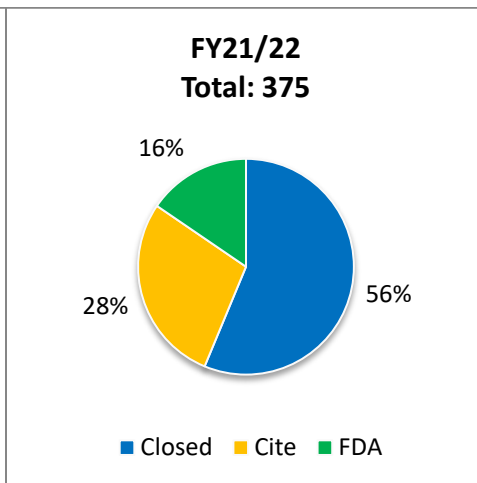
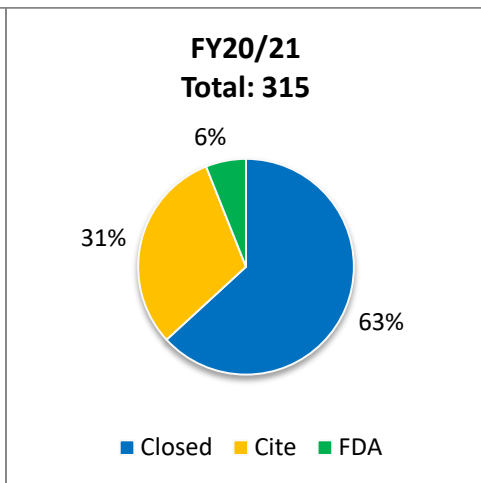
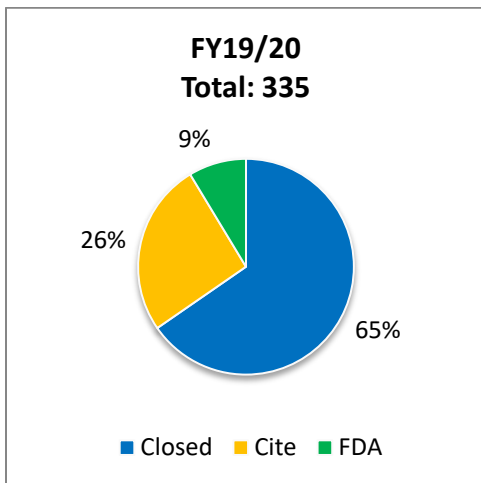
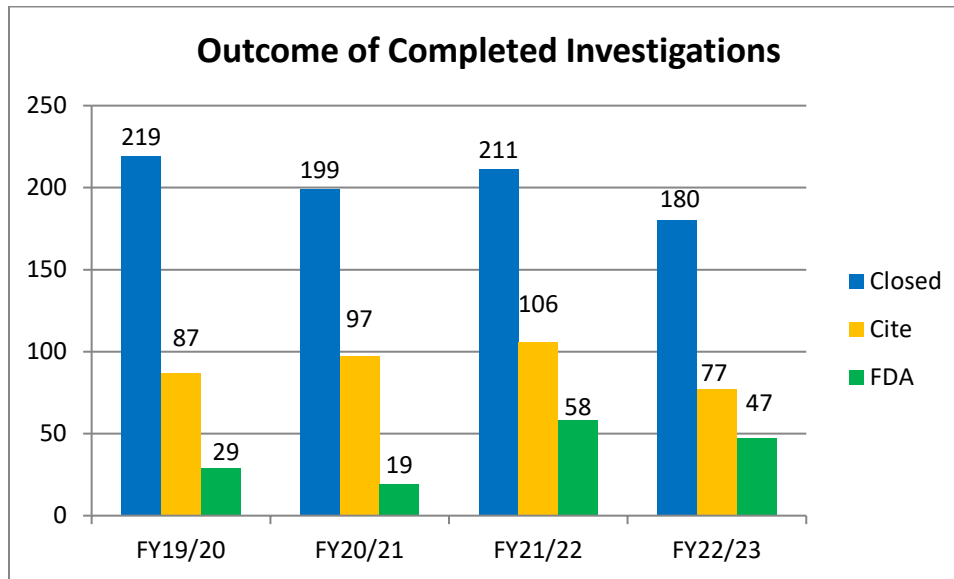
NOTE: FY22/23 statistics are through June 30, 2023

Complaint Investigation Phase

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



Complaint Investigation Phase Outcome of Completed Investigations



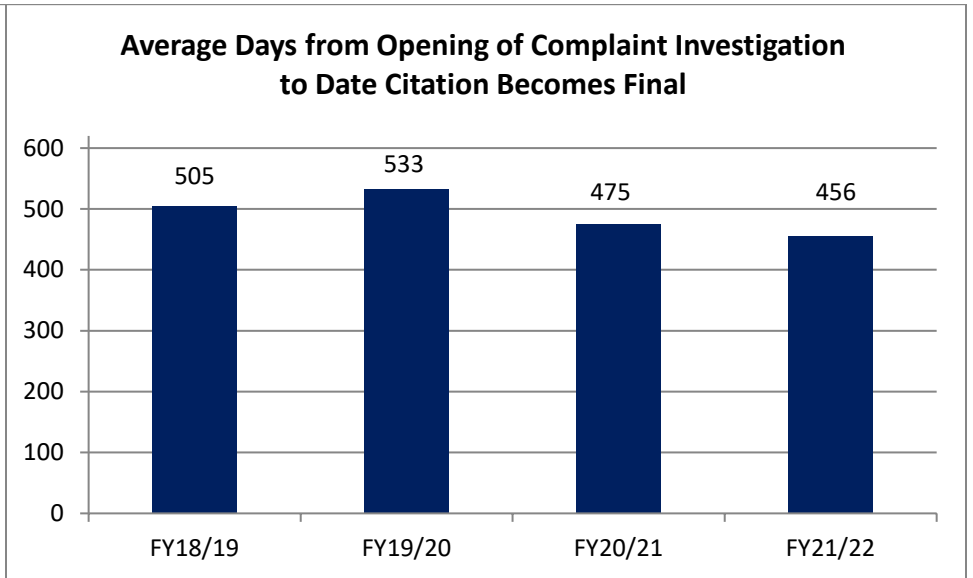
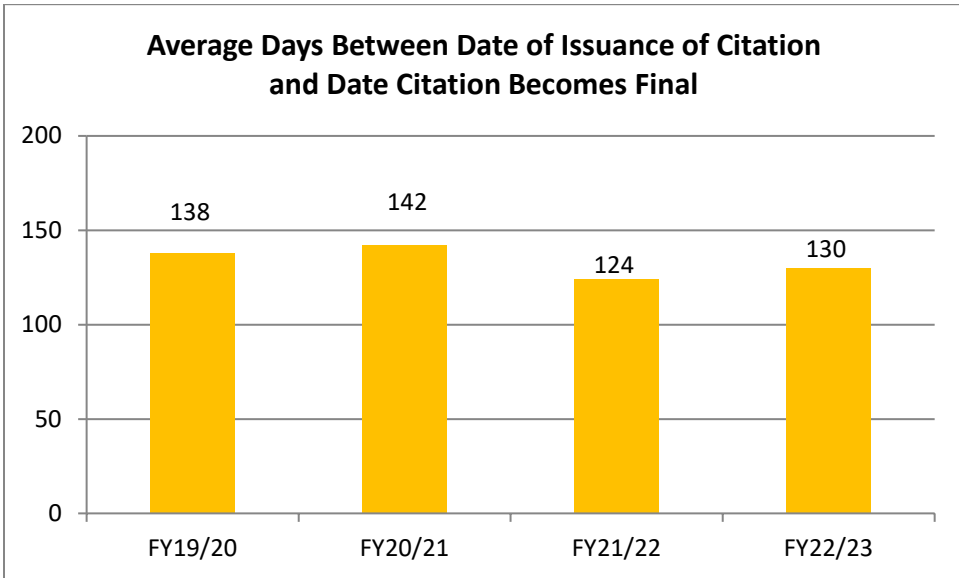
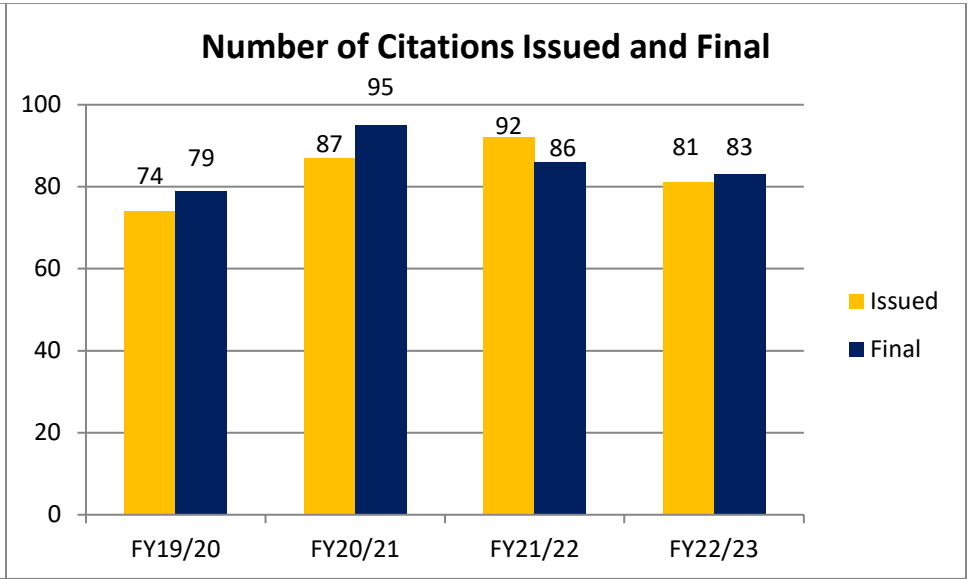
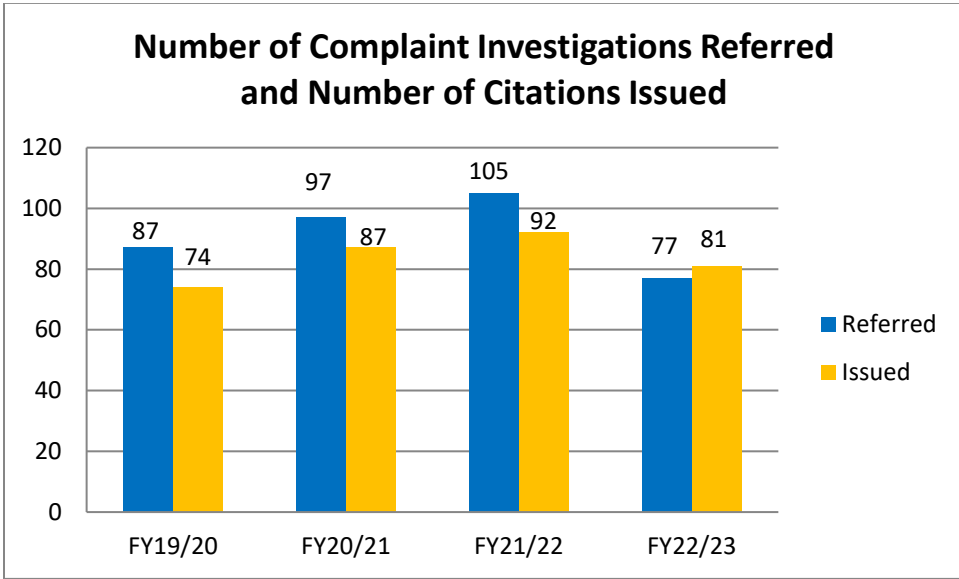
NOTE: FY22/23 statistics are through June 30, 2023

Closed with No Action Taken, includes No Violation/Insufficient Evidence; Compliance Obtained; Warning Letter; Other Reason for Closing Without Action (e.g., subject deceased); Resolved After Initial Notification; Referred to District Attorney with Request to File Criminal Charges; and Mediated.

Cite = Referred for Issuance of Citation

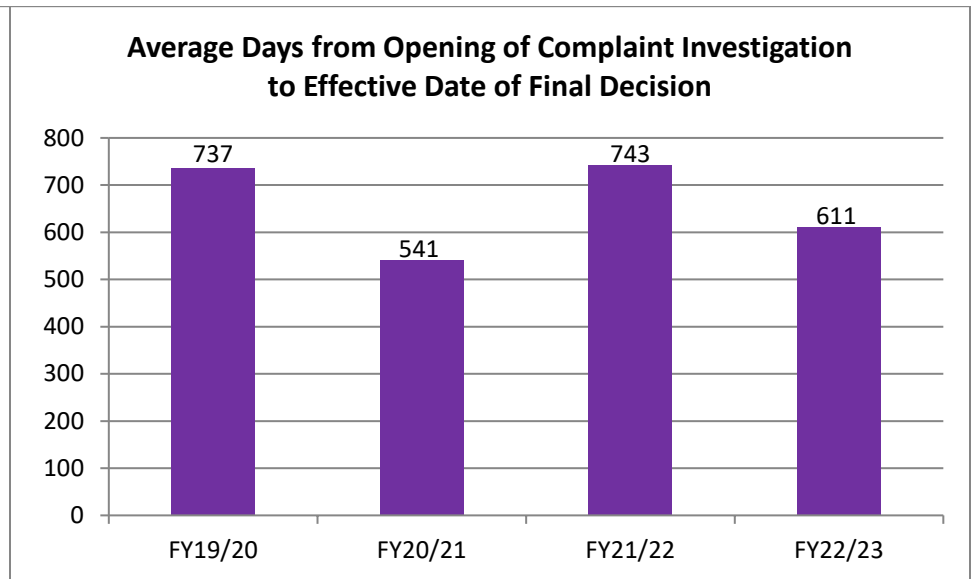
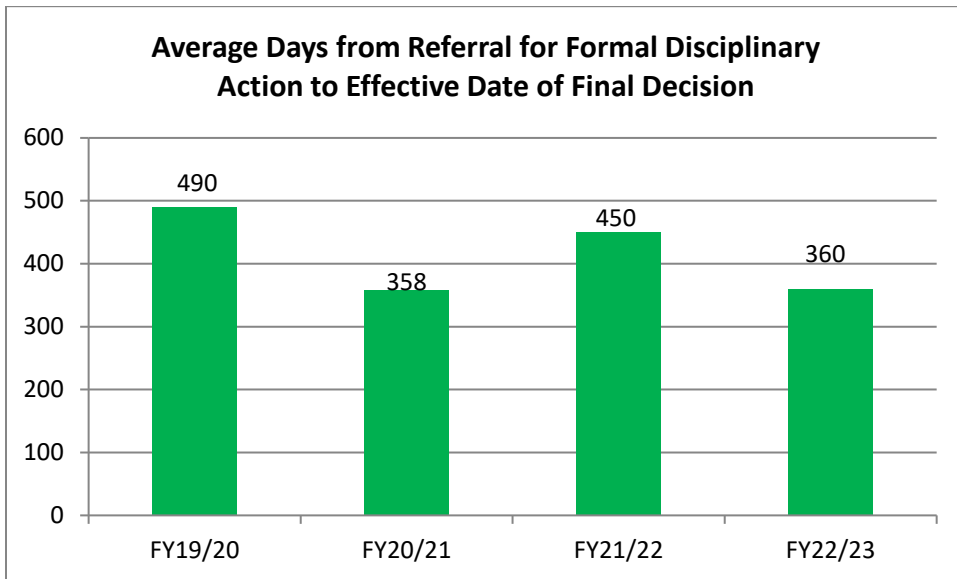
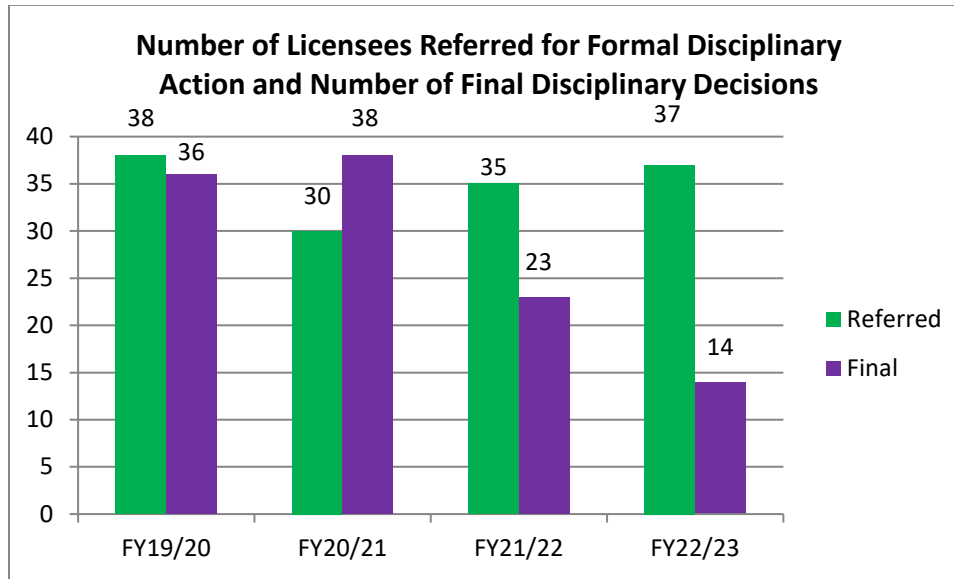
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)



NOTE: FY22/23 statistics are through June 30, 2023

Formal Disciplinary Actions Against Licensees



NOTE: FY22/23 statistics are through June 30, 2023

Complaint Investigation Phase

Number of Complaint Investigations Opened & Completed by Month 12-Month Cycle

Month	Complaint Investigations Opened	Complaint Investigations Completed
September 2022	43	11
October 2022	21	14
November 2022	25	27
December 2022	27	16
January 2023	28	7
February 2023	22	14
March 2023	20	33
April 2023	39	29
March 2023	20	33
April 2023	39	29
May 2023	51	38
June 2023	58	35

Complaint Investigations Opened and Completed Total by Fiscal Year

Fiscal Year	Complaint Investigations Opened	Complaint Investigations Completed
2019/20	331	335
2020/21	363	315
2021/22	336	350
2022/23	387	304

Current Fiscal Year through June 30, 2023

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

Fiscal Year	Number of Open (Pending) Complaint Investigations
2019/20	239
2020/21	285
2021/22	268
2022/23	352

Current Fiscal Year through June 30, 2023

Complaint Investigation Phase

Average Days from Opening of Complaint Investigation to Completion of Investigation (at end of FY or month for current FY)

Fiscal Year	Average Days
2019/20	277
2020/21	274
2021/22	278
2022/23	285

Current Fiscal Year through June 30, 2023

Outcome of Completed Investigations

Fiscal Year	# Closed	% Closed	# Cite	% Cite	# FDA	% FDA
2019/20	219	65%	87	29%	29	9%
2020/21	199	63%	97	31%	19	6%
2021/22	191	55%	102	29%	57	16%
2022/23	180	59%	77	25%	47	16%

Current Fiscal Year through June 30, 2023

Closed = Closed with No Action Taken, includes No Violation/Insufficient Evidence; Compliance Obtained; Warning Letter; Other Reason for Closing Without Action (e.g., subject deceased); Resolved After Initial Notification; Referred to District Attorney with Request to File Criminal Charges; and Mediated.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action

Complaint Investigation Phase

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

Month	0-30 Days	31-60 Days	61-90 Days	91-12 Days	121-180 Days	181-270 Days	271-365 Days	1-2 Years	2-3 Years	3-4 Years
July 2022	22	25	26	25	31	37	35	31	3	0
August 2022	23	24	22	28	29	47	29	38	3	0
September 2022	42	23	24	22	46	44	36	35	3	0
October 2022	20	36	25	25	44	40	45	45	2	0
November 2022	24	18	30	23	42	49	43	49	2	0
December 2022	26	24	16	28	43	50	39	62	3	0
January 2023	27	26	13	26	48	57	39	73	3	0
February 2023	21	23	26	22	44	59	41	81	3	0
March 2023	19	19	21	26	27	67	48	77	3	0
April 2023	38	18	16	21	36	60	48	76	3	0
May 2023	51	37	18	15	42	47	50	66	3	0
June 2023	58	48	34	18	35	45	48	65	6	0

Citations (Informal Enforcement Actions)

Number of Complaint Investigations Referred and Number of Citations Issued

Fiscal Year	Complaint Investigations Referred for Issuance of Citation	Citations Issued
2019/20	87	74
2020/21	97	87
2021/22	105	87
2022/23	77	81

Current Fiscal Year through June 30, 2023

Number of Citations Issued and Final

Fiscal Year	Issued	Final
2019/20	74	79
2020/21	87	95
2021/22	87	85
2022/23	81	83

Current Fiscal Year through June 30, 2023

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

Fiscal Year	Number of Days
2019/20	138
2020/21	142
2021/22	125
2022/23	130

Current Fiscal Year through June 30, 2023

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

Fiscal Year	Number of Days
2019/20	505
2020/21	533
2021/22	475
2022/23	456

Current Fiscal Year through June 30, 2023

Formal Disciplinary Actions Against Licensees

Number of Licensees Referred for Formal Disciplinary Action and Number of Final Disciplinary Decisions

Fiscal Year	Number of Licensees Referred for Formal Disciplinary Action	Number of Final Disciplinary Decisions
2019/20	38	35
2020/21	30	38
2021/22	32	19
2022/23	37	14

Current Fiscal Year through June 30, 2023

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

Fiscal Year	Number of Days
2019/20	490
2020/21	358
2021/22	419
2022/23	360

Current Fiscal Year through June 30, 2023

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

Fiscal Year	Number of Days
2019/20	737
2020/21	541
2021/22	747
2022/23	611

Current Fiscal Year through June 30, 2023

VII. Exams/Licensing

A. Examination/Licensing Updates

VIII. Responsible Charge and Business Entity Requirements (Possible Action)

Responsible Charge and Business Entity Requirements

Questions have recently been raised regarding responsible charge and the requirements for a business to be able to offer and provide civil, electrical, or mechanical engineering or land surveying services. For reference, copies of Business and Professions Code sections 6738 and 8729 regarding engineering and land surveying businesses and Title 16, California Code of Regulations sections 404.1 and 404.2 regarding responsible charge for professional engineering and land surveying are included.

Business and Professions Code section 6738.

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

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

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

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

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

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

(d) A person not licensed under this chapter may also be a partner or an officer of a civil, electrical, or mechanical engineering business if the requirements of subdivision (a) are met. This section does not permit a person who is not licensed under this chapter to be the sole owner of a civil, electrical, or mechanical engineering business, unless otherwise exempt under this chapter.

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

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

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

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

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, (A) by the appropriate licensing board if that person is

operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

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

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

(g) This section does not affect the provisions of Sections 6731.2 and 8726.1.

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

(i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

Business and Professions Code section 8729.

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

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

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

(3) If the business name of a California land surveying business contains the name of a person, then that person shall be licensed by the board as a land surveyor or licensed by the board in any year as a civil engineer. Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of the individual in the business name, shall clearly and specifically designate the license discipline of each individual named.

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

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

(d) A person not licensed under this chapter or licensed as a civil engineer in this state before 1982 may also be a partner or an officer of a land surveying business if the conditions of subdivision (a) are satisfied. This section does not permit a person who is not licensed under this

chapter or licensed as a civil engineer in this state before 1982 to be the sole owner or officer of a land surveying business, unless otherwise exempt under this chapter.

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

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

(1) The person's name had been used in the name of the business, or a predecessor in interest of the business, before the death or retirement of the person.

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

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

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

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

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

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

(i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

Title 16, California Code of Regulations section 404.1. Responsible Charge— Professional Engineering.

(a) As used in the Professional Engineers Act, the term "responsible charge" directly relates to the extent of control a professional engineer is required to maintain while exercising independent control and direction of professional engineering services or creative work and to the engineering decisions which can be made only by a professional engineer.

(1) Extent of Control. The extent of control necessary to be in responsible charge shall be such that the engineer:

(A) Makes or reviews and approves the engineering decisions defined and described in subdivision (a)(2) below.

(B) In making or reviewing and approving the engineering decisions, determines the applicability of design criteria and technical recommendations provided by others before incorporating such criteria or recommendations.

(2) Engineering Decisions. The term "responsible charge" relates to engineering decisions within the purview of the Professional Engineers Act.

Engineering decisions which must be made by and are the responsibility of the engineer in responsible charge are those decisions concerning permanent or temporary projects which could create a hazard to life, health, property, or public welfare, and may include, but are not limited to:

(A) The selection of engineering alternatives to be investigated and the comparison of alternatives for the project.

(B) The selection or development of design standards or methods, and materials to be used.

(C) The decisions related to the preparation of engineering plans, specifications, calculations, reports, and other documents for the engineered works.

(D) The selection or development of techniques or methods of testing to be used in evaluating materials or completed projects, either new or existing.

(E) The review and evaluation of manufacturing, fabrication or construction methods or controls to be used and the evaluation of test results, materials and workmanship insofar as they affect the character and integrity of the completed project.

(F) The development and control of operating and maintenance procedures.

(3) Reviewing and Approving Engineering Decisions. In making or reviewing and approving engineering decisions, the engineer shall be physically present or shall review and approve through the use of communication devices the engineering decisions prior to their implementation.

(b) Responsible Charge Criteria. In order to evaluate whether an engineer is in responsible charge, the following must be considered: The professional engineer who signs engineering documents must be capable of answering questions asked by individuals who are licensed by the Board in the appropriate branch of professional engineering relevant to the project and who are fully competent and proficient by education and experience in the field or fields of professional engineering relevant to the project. These questions would be relevant to the engineering decisions made during the individual's participation in the project, and in sufficient detail to leave little question as to the engineer's technical knowledge of the engineering performed. It is not necessary to defend decisions as in an adversarial situation, but only to demonstrate that the individual in responsible charge made, or reviewed and approved, them and possessed sufficient knowledge of the project to make, or review and approve, them.

Examples of questions to be answered by the engineer could relate to criteria for design, methods of analysis, methods of manufacture and construction, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individual should be able to clearly express the extent of control and how it is exercised and to demonstrate that the engineer is answerable within said extent of control.

(c) Successor Licensee. In situations when the professional engineer in responsible charge of an engineering project is unavailable to complete the project or when the project is a site specific adaptation of a previous design, a professional engineer (hereinafter referred to as the "successor licensee") may assume responsible charge of the project as long as the successor licensee exercises the requisite extent of control and assumes responsibility for the engineering decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the requirements of the Professional Engineers Act and Sections 411 and 415. Except as provided in Sections 6735, 6735.3, and 6735.4 of the Code, the original licensee is not relieved of any responsibility arising from the engineering services of which he or she was in responsible charge.

(d) Portions of Projects. Nothing in this section prohibits a professional engineer from providing services for portions of or to add to or to modify an engineering project engineered under the responsible charge of another licensee as long as the professional engineer exercises the requisite extent of control and assumes responsibility for the engineering decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the

requirements of the Professional Engineers Act and Sections 411 and 415. The professional engineer need only be in responsible charge of the portions, additions, or modifications or the portion of the project affected by the addition or modification and not of the entire project. Except as provided in Sections 6735(b), 6735.3(b), and 6735.4(b) of the Code, the original licensee is not relieved of any responsibility arising from the engineering services of which he or she was in responsible charge.

(e) The term “responsible charge” does not refer to any of the following:

(1) the concept of financial liability;

(2) management control in a hierarchy of professional engineers except as each of the individuals in the hierarchy exercises independent engineering judgment and thus responsible charge;

(3) such administrative and management functions as accounting, labor relations, personnel performance standards, marketing of services, or goal setting. While an engineer may also have such duties in this position, it should not enhance or decrease one’s status of being in responsible charge of the engineering.

Title 16, California Code of Regulations section 404.2. Responsible Charge– Professional Land Surveying.

(a) The term “responsible charge” directly relates to the extent of control a licensed land surveyor or civil engineer legally authorized to practice land surveying (hereinafter referred to as “legally authorized civil engineer”) is required to maintain while exercising independent control and direction of land surveying work or services, and the land surveying decisions which can be made only by a licensed land surveyor or legally authorized civil engineer.

(1) Extent of Control. The extent of control necessary to be in responsible charge shall be such that the land surveyor or legally authorized civil engineer:

(A) Makes or reviews and approves the land surveying decisions defined and described in subdivision (a)(2) below.

(B) In making or reviewing and approving the land surveying decisions, determines the applicability of survey criteria and technical recommendations provided by others before incorporating such criteria or recommendations.

(2) Land Surveying Decisions. The term “responsible charge” relates to land surveying decisions within the purview of the Professional Land Surveyors’ Act.

Land surveying decisions which must be made by and are the responsibility of the land surveyor or legally authorized civil engineer in responsible charge are those decisions concerning permanent or temporary work which could create a hazard to life, health, property, or public welfare, and may include, but are not limited to:

(A) Selecting the methods, procedures, and tolerances of field work.

(B) Determining calculation and adjustment methods.

(C) Determining and specifying the information to be shown on maps or documents furnished in connection with land surveying services, including the format of the information and the format of the maps or documents.

(D) The decisions related to the preparation of maps, plats, land surveying reports, descriptions, and other land surveying documents furnished in connection with the land surveying services.

(E) Reviewing the sufficiency and accuracy of the work product.

(3) Reviewing and Approving Land Surveying Decisions. In making or reviewing and approving land surveying decisions, the land surveyor or legally authorized civil engineer shall be physically present or shall review and approve through the use of communication devices the land surveying decisions prior to their implementation.

(b) Responsible Charge Criteria. In order to evaluate whether a person authorized to practice land surveying is in responsible charge, the following must be considered: The land surveyor or legally authorized civil engineer who signs surveying documents must be capable of answering questions asked by licensees of the Board who are fully competent and proficient by education and experience in the field or fields of professional land surveying relevant to the project. These questions would be relevant to the decisions made during the individual's participation in the project, and in sufficient detail to leave little question as to the land surveyor's or legally authorized civil engineer's technical knowledge of the work performed. It is not necessary to defend decisions as in an adversarial situation, but only to demonstrate that the individual in responsible charge made, or reviewed and approved, them and possessed sufficient knowledge of the project to make, or review and approve, them.

Examples of questions to be answered by the land surveyor or legally authorized civil engineer could relate to criteria for measurement, surveying methods, analysis, and conclusions made including, but not limited to, the retracement of government surveys, interpretation and construction of deed descriptions, conflicts between construction drawings and actual conditions, determination of the proper control datum and epoch, application of proportion methods and analysis of evidence related to written and unwritten property rights. The individual shall be able to clearly express the extent of control and how it is exercised and to demonstrate that the land surveyor or legally authorized civil engineer is answerable within said extent of control.

(c) Successor Licensee. In situations when the professional land surveyor or legally authorized civil engineer in responsible charge of a land surveying project is unavailable to complete the project, a professional land surveyor or legally authorized civil engineer (hereinafter referred to as the "successor licensee") may assume responsible charge of the project as long as the successor licensee exercises the extent of control and assumes responsibility for the surveying decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the requirements of the Professional Land Surveyors' Act and Sections 411 and 415. Except as provided in Section 8761.2 of the Code, the original licensee is not relieved of any responsibility arising from the land surveying services of which he or she was in responsible charge.

(d) Portions of Projects. Nothing in this section prohibits a professional land surveyor or legally authorized civil engineer from providing services for portions of or to add to or to modify a land surveying project performed under the responsible charge of another licensee as long as the professional land surveyor or legally authorized civil engineer exercises the requisite extent of control and assumes responsibility for the land surveying decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the requirements of the Professional Land Surveyors' Act and Sections 411 and 415. The professional land surveyor or legally authorized civil engineer need only be in responsible charge of the portions, additions, or modifications or the portion of the project affected by the addition or modification and not of the entire project. Except as provided in Section 8761.2 of the Code, the original licensee is not relieved of any responsibility arising from the land surveying services of which he or she was in responsible charge.

(e) The term "responsible charge" does not refer to any of the following:

- (1) the concept of financial liability;
- (2) management control in a hierarchy of land surveyors or legally authorized civil engineers except as each of the individuals in the hierarchy exercises independent land surveying judgment and thus responsible charge;
- (3) such administrative and management functions as accounting, labor relations, personnel performance standards, marketing of services, or goal setting. While a land surveyor or legally authorized civil engineer may also have such duties in this position, it should not enhance or decrease one's status of being in responsible charge of the work.

IX. Introduction, Discussion, and Overview of the 2023-24 Sunset Process for the Board (Possible Action)

X. Executive Officer's Report

- A. Rulemaking Status Report
- B. Update on Board's Business Modernization Project
- C. Personnel
- D. ABET
- E. Association of State Boards of Geology (ASBOG)
 - 1. 2023 Fall Annual Meeting, October 2023, Spokane, WA – Update
(Possible Action)
- F. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. 2023 NCEES Annual Meeting, August 15-18, 2023 – Summary of Motions
(Possible Action)
- G. Update on Outreach Efforts

Rulemaking Status Report

1. Examination Fees, Abandoned Applications, and Postponements (16 CCR sections 3005, 3024, 3024.5, 3026, and 3031)

- Approved by Office of Administrative Law (OAL) and became effective upon filing with Secretary of State on June 29, 2023.
- Rulemaking file was transmitted to Office of Administrative Law (OAL) for final review on May 17, 2023.
- Agency Approved final rulemaking on May 15, 2023.
- Board adopted final rulemaking proposal at the February 2-3, 2023, Board meeting.
- The Office of Administrative Law has approved the notice of publication for a 45-day comment period that was posted on the Board website on November 10, 2022.
- Board staff finalizing initial rulemaking documents for submittal to DCA and Agency for review prior to public notice in October 2022.
- Initial rulemaking package submitted to DCA Legal for review on July 27, 2022.
- Board approved revised text at the June 23-24, 2022, Board meeting.
- Staff working with DCA Legal to finalize proposal for notice (April 2022).
- Submitted for initial (pre-notice) review by DCA Legal on December 6, 2021.
- Board directed staff to pursue rulemaking proposal on November 8, 2021.

2. Applications, References, Computation of Qualifying Experience, and Schedule of Examinations (16 CCR sections 420, 427.10, 427.30, 3021, 3022.2, 3023, and 3032)

- Staff working with Legal to prepare language for Board review.
- Staff working on final text for submittal to DCA Legal in September 2022.
- Staff working with DCA Legal to finalize proposal for notice (April 2022).
- Submitted for initial (pre-notice) review by DCA Legal on December 6, 2021.
- Board directed staff to pursue rulemaking proposal on November 8, 2021.

3. Definition of Traffic Engineering (16 CCR 404)

- Board staff will work with DCA Legal to prepare documents for initial notice in 2023.
- Submitted for initial (pre-notice) review by DCA Legal on September 3, 2020.
- Board directed staff to pursue rulemaking proposal on March 8, 2018.

4. Definitions of Negligence and Incompetence and Responsible Charge Criteria for Professional Geologists and Professional Geophysicists (16 CCR sections 3003 and 3003.1)

- Board staff will work on the pre-notice documents in 2023.
- Board directed staff to pursue rulemaking proposal on September 6, 2018.

Note: Documents related to any rulemaking file listed as noticed for public comment can be obtained from the Board's website at: http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.

PROJECT STATUS REPORT

Reporting period:	1/21/2020 – 7/17/2023	Project title:	Business Modernization Cohort 1
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EXECUTIVE SUMMARY

Narrative Summary of Status	Schedule:	GREEN	Budget:	GREEN	Issues:	GREEN
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The Maintenance & Operations (M&O) phase of project began July 2022 and expected to continue through 2023. PI7/M&O3 was released April 18, 2023 and included additional application (GIT and Professional Geologist) types for the release.

PROJECT MILESTONE STATUS REVIEW

Project Milestones	Status	Completion Date	Issues Exist (Yes/No)
Project Planning Complete – Project Start	Complete	1/13/2020	No
Go Live – Most Viable Product (MVP1)	Complete	9/16/2020	No
Go Live - Product Increment 2 (PI2)	Complete	1/20/2021	No
Go Live - Product Increment 3 (PI3)	Complete	6/16/2021	No
Go Live - Product Increment 3.5 (PI3.5)	Complete	11/10/2021	No
Go Live - Product Increment 4 (PI4)	Complete	4/29/2022	No
Go Live – M&O Increment 1 (PI5/M&O1)	Complete	10/12/2022	No
Go Live – M&O Increment 2 (PI6/M&O2)	Complete	2/28/2023	No

Go Live – M&O Increment 3 (PI7/M&O3)	Complete	4/18/2023	No
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Agile Team is currently working with staff on applications related the Structural, Geotechnical, and Traffic engineer license types.

Consent Agenda

The board of directors endorses the following motions as potential consent items. Council delegates will be asked to approve the individual motions on the consent agenda. It is proposed that this ratification be made with a single motion. However, any member board may request that an item be removed from the consent agenda and returned to the non-consent agenda for separate consideration and action by the Council.

- Bylaws Motions 1–4
- ACCA Motion 1
- Education Motions 1–2
- EPP Motions 1–7, 9–10
- Finance..... Motions 1–4
- Law Enforcement..... Motion 1
- UPLG Motions 1–3, 5–8, 10–12, 14–25, 27
- ELMTF Motion 1

Board of Directors' Positions on All Motions

Motion number	Topic	Board of directors' position	Consent agenda	Page number
Bylaws 1	Amend <i>Bylaws</i> 4.05	Endorses	Yes	35
Bylaws 2	Amend <i>Bylaws</i> 3.021	Endorses	Yes	37
Bylaws 3	Amend <i>Bylaws</i> 3.09	Endorses	Yes	37
Bylaws 4	Amend <i>Bylaws</i> 11.04	Endorses	Yes	38
ACCA 1	Charge Bylaws Committee with amending <i>Bylaws</i> 3.021	Endorses	Yes	65
ACCA 2	Charge Bylaws Committee with amending <i>Bylaws</i> 4.05	Endorses	No	66
Education 1	Modify Surveying Education Award to expand eligibility	Endorses	Yes	70
Education 2	Charge UPLG with amending <i>Model Rules</i> 240.30 B	Endorses	Yes	70
Education 3	Charge UPLG with amending <i>Model Rules</i> 240.30	Endorses	No	71
EPP 1	Amend EDP 2	Endorses	Yes	80
EPP 2	Amend EDP 3	Endorses	Yes	81
EPP 3	Amend EDP 4	Endorses	Yes	82
EPP 4	Amend EDP 5	Endorses	Yes	83
EPP 5	Delete EDP 6	Endorses	Yes	83
EPP 6	Amend EDP 7	Endorses	Yes	84
EPP 7	Amend EDP 9	Endorses	Yes	84
EPP 8	Amend EDP 10	Does not endorse	No	85
EPP 9	Amend EAP 2	Endorses	Yes	86
EPP 10	Amend EAP 8	Endorses	Yes	87

Motion number	Topic	Board of directors' position	Consent agenda	Page number
EPS 1	Approve development of PS exam PLSS module	No position	No	92
Finance 1	Postpone adoption of operating budget until end of last business session	Endorses	Yes	97
Finance 2	Postpone adoption of capital budget until end of last business session	Endorses	Yes	97
Finance 3	Amend FP 1C	Endorses	Yes	98
Finance 4	Amend FP 6 to set price for PS exam PLSS module if EPS Motion 1 passes	Endorses	Yes	98
Law Enforcement 1	Amend FP 3	Endorses	Yes	112
UPLG 1	Replace "certificate of licensure" with "license" in <i>Model Law</i> and <i>Model Rules</i>	Endorses	Yes	131
UPLG 2	Replace "licensed engineer" and "licensed surveyor" with "professional engineer" and "professional surveyor" in <i>Model Law</i> and <i>Model Rules</i>	Endorses	Yes	131
UPLG 3	Amend <i>Model Law</i> 110.20 A	Endorses	Yes	132
UPLG 4	Amend <i>Model Law</i> 110.20 A	Endorses	No	132
UPLG 5	Amend <i>Model Law</i> 110.20 B	Endorses	Yes	133
UPLG 6	Amend <i>Model Law</i> 110.20 J	Endorses	Yes	134
UPLG 7	Amend <i>Model Law</i> 110.20 N	Endorses	Yes	134
UPLG 8	Amend <i>Model Law</i> 110.20 O	Endorses	Yes	134
UPLG 9	Amend <i>Model Law</i> 120.20	Endorses	No	135
UPLG 10	Amend <i>Model Law</i> 120.60 B	Endorses	Yes	136
UPLG 11	Amend <i>Model Law</i> 130.10 B	Endorses	Yes	136
UPLG 12	Amend <i>Model Law</i> 130.10 B	Endorses	Yes	137
UPLG 13	Amend <i>Model Law</i> 130.10 C	Endorses	No	137
UPLG 14	Amend <i>Model Law</i> 130.20	Endorses	Yes	139
UPLG 15	Amend <i>Model Law</i> 150.30 A	Endorses	Yes	140
UPLG 16	Amend <i>Model Law</i> 160.20	Endorses	Yes	141
UPLG 17	Delete <i>Model Law</i> 170.20	Endorses	Yes	142
UPLG 18	Amend <i>Model Rules</i> 210.30	Endorses	Yes	142
UPLG 19	Amend <i>Model Rules</i> 230.10	Endorses	Yes	143
UPLG 20	Amend <i>Model Rules</i> 230.40 A	Endorses	Yes	143
UPLG 21	Amend <i>Model Rules</i> 230.40 B	Endorses	Yes	144
UPLG 22	Amend <i>Model Rules</i> 230.40 C	Endorses	Yes	145
UPLG 23	Amend <i>Model Rules</i> 230.40 D	Endorses	Yes	145

Motion number	Topic	Board of directors' position	Consent agenda	Page number
UPLG 24	Amend <i>Model Rules</i> 230.40 E, K–M	Endorses	Yes	146
UPLG 25	Amend <i>Model Rules</i> 230.60 E	Endorses	Yes	147
UPLG 26	Amend <i>Model Rules</i> 240.20	Endorses	No	147
UPLG 27	Amend <i>Model Rules</i> 240.30 H and 240.40	Endorses	Yes	149
ELMTF 1	Charge Bylaws Committee with amending <i>Bylaws</i> Section 7 to establish Committee on Licensure	Endorses	Yes	153
BoD 1	Approve SELC as POLC member	Endorses	No	154
BoD 2	Direct NCEES staff to remove references to pencil-and-paper exams from NCEES documents and website	Endorses	No	154

EPP Motion 6

Move that Exam Development Policy 7 be amended as follows:

EDP 7 Deleting/Combining/Renaming a Discipline or Module from the Examination Program

B. Deleting/Combining CBT Examinations

If the population of first-time examinees from NCEES jurisdictions for any NCEES CBT examination or module is not adequate to provide for accurate psychometric analysis, the EPP Committee shall review the desirability of continuing the subject examination or module and make one of the following recommendations to the board of directors:

1. Continue to prepare the examination or module.
2. Request the appropriate exam development committee and the supporting technical society to prepare and submit a specific remedial action plan for increasing the number of first-time takers to a level that meets or exceeds the minimum candidate requirements in the time period specified by the EPP Committee.
3. Place the examination, section, or module on probation. The EPP Committee shall specify the conditions of the probation, including a time frame for corrective action. The recommendation may include ~~the combination of the examination with another examination or other~~ such action as the EPP Committee deems appropriate.
4. Discontinue the examination, section, or module.
5. Combine the examination, section, or module with another examination, section, or module.

C. Request to Delete an Examination, Section, or Module

If an NCEES committee, technical society, or other group desires to have an examination, section, or module deleted, it should make a request to the EPE/EPS Committee. The EPE/EPS Committee ~~will~~shall review the request and make a recommendation to the board of directors.

Rationale

The committee proposes adding the term “section,” as used in the computer-based PE Structural examination, to clarify that the combination of an examination, section, or module can be a separate outcome and not strictly associated with placing the examination, section, or module on probation.

Board of directors’ position

Endorses, consent agenda

EPP Motion 7

Move that Exam Development Policy 9 be amended as follows:

EDP 9 Adoption of a New Depth Module or Division of an Existing Examination into Multiple Examinations for the PS Examination

A. Member Board Requirement

Requests for depth modules shall be made by no fewer than 10 member boards collectively who can each demonstrate a need for the depth module in their jurisdiction. A request older than four years must be reaffirmed by the member boards. Requests shall include proof of such need, an estimate of usage, and the impact on safeguarding the health, safety, and welfare of the public. Proof of need shall include evidence that knowledge areas and skills are not adequately measured in an existing examination or module and that additional knowledge areas and skills required for the discipline are sufficient to support a new module. The estimate of usage shall include the methodology used to derive that estimate.

B. Minimum Number of Exam Candidates

No discipline or depth module shall be added or reinstated to the examination program unless the number of candidates for an ongoing examination conforms to NCEES policies and procedures. If that is demonstrated, a professional activities and knowledge study (PAKS) shall be conducted to establish that the addition in question ~~is composed of~~ comprises a unique ~~set~~ body of knowledges important for safeguarding the health, safety, and welfare of the public.

F. Requests to Divide an Existing Examination

Requests to divide an existing examination into multiple examinations shall be made to the Committee on Examinations for Professional Surveyors (EPS). Requests shall include proof of such need in accordance with paragraphs A and B of this policy.

Rationale

These changes align the language of EDP 4 and EDP 9 to clarify the expectations of supporting member boards.

Board of directors' position

Endorses, consent agenda

EPP Motion 8

Move that Exam Development Policy 10 be amended as follows:

EDP 10 Item Writers, Pass-Point Evaluators, Reviewers, and Scorers

C. Restriction on Teaching Refresher Courses

Any person serving on an NCEES examination development committee or involved in a pass-point evaluation panel shall not teach a refresher course related to the preparation for that examination within three years after of serving on the committee or panel.

Rationale

EDP 10 was reexamined after amendments were approved at the 2022 NCEES annual meeting. The intention is not to prohibit these individuals from teaching normal coursework that would naturally prepare a candidate for an exam as part of their regular education but to prohibit teaching a specific class expressly designed to help a candidate prepare for the exam. Adding the word “refresher” back returns clarity to this policy’s intent.

Board of directors' position

Does not endorse, non-consent agenda

Board of directors' rationale

The board is not endorsing the motion because it feels that the term “refresher” is too limiting and that a more comprehensive description for courses taught specifically to aid someone in passing an NCEES examination is needed.



Committee on Examinations for Professional Surveyors

Joseph Flynn, L.S., Chair

ABSTRACT

The Committee on Examinations for Professional Surveyors (EPS) supervises the preparation of exam specifications, or blueprints, and is responsible for the content and scoring of all Fundamentals of Surveying (FS) and Principles and Practice of Surveying (PS) exams.

The committee was assigned three charges. It held one virtual meeting and one in-person meeting at NCEES headquarters in Greenville, South Carolina, and performed additional work through the Basecamp collaboration website. The charges centered around maintenance of the exam, with one exception: to bring closure to the 2017 Council decision to authorize the development of one or more depth modules to supplement the PS exam.

The committee will present one motion for Council action. **The motion is shown beginning on page 92.**

CHARGES

Charge 1

Accomplish all recurring committee activities:

- *Oversee the development and maintenance of necessary exam items for future Fundamentals of Surveying and Principles and Practice of Surveying examinations in accordance with existing exam development policies.*
- *Review and evaluate exam administrations for conformity of results; prepare, review, and refine future examinations.*
- *Review the pass rates and item performance for recent exam administrations.*
- *Review the Committee on Examination Audit recommendations and implement any changes approved by the board of directors.*

Overall, the performance of the FS and PS exams is statistically strong in terms of test performance and volume of test takers. Alternative item types (AITs) are performing well and accomplishing the intended goals. The volume of test takers is the highest it has been since 2010, having rebounded well from the COVID-19 pandemic. No motions resulted from this charge.

Charge 2

Review the results (final report and specifications) of the completed professional activities and knowledge study (PAKS) for the PS examination:

- *Recommend what, if any, PS divisional examinations are feasible as a result of the PS PAKS.*
- *Work with NCEES staff to determine the cost of the proposed divisional examination(s) and report it to the Committee on Finances so that the committee can determine the associated exam fee.*

The EPS Committee recommends moving forward with a revised PS exam format. This revised format includes a single PS exam and a single Public Land Survey System (PLSS) module. The PS exam's blueprint was generated from the combined Core and Boundary content development during the 2022 PAKS process. Removing all PLSS items from the PS exam will allow for additional Mapping Science and Boundary content to provide a more robust PS exam. The updated PS exam may alleviate concerns related to testing candidates on content outside of each jurisdiction's oversight.

The PS exam will include 85 operational items and 15 pretest items and have a 7-hour appointment.

The proposed PLSS module will be developed in accordance with NCEES exam development policies and procedures and the results from the 2022 PAKS. This exam module may also lessen the burden on jurisdictions to create and include PLSS-related content on their state-specific exams, thus lowering the potential cost and effort for the development of state-specific exams.

The PLSS module will include 60 operational items and 15 pretest items and have a 5-hour appointment.

The following process was used to reach this recommendation.

At the 2019 annual business meeting in Washington, D.C., a motion was presented by the Surveying Exam Module Task Force and approved by the Council that the PS examination be restructured into five separately scored divisions and that the EPS Committee be charged with implementation. The five divisions were Core PS, Boundary, PLSS, Mapping Science, and Incidental Drainage Design.

The task force's rationale for the motion included the following factors: A divisional exam approach would allow for less duplication between jurisdictional exams and the national exams. It would allow those member boards that separately license mapping scientists/photogrammetrists to have an option for evaluating the minimum competency of those professionals. Also, jurisdictions that have mapping science and/or incidental drainage in their definition of surveying would be able to adequately test for competence in those areas.

The Surveying Exam Module Task Force conducted multiple surveys through questionnaires to member boards to determine the purpose and need for a divisional exam format. After a thorough review and discussion of the compiled research, the task force determined that the current PS examination should be restructured into five separate divisional examinations, each scored individually. Without the support of a completed PAKS, the task force recommended that the following exams be created:

1. Core PS exam with 50 items
2. PS Boundary exam with 25 items and a 2.5-hour appointment time
3. PS PLSS exam with 25 items and a 2.5-hour appointment time
4. PS Mapping Science exam with 25 items and a 2.5-hour appointment time
5. PS Incidental Drainage Design exam with 25 items and a 2.5-hour appointment time

As a follow-up to the task force recommendation and in accordance with NCEES exam development policies and procedures, a PAKS was conducted in the fall of 2022. The recommended exams contrasted greatly when compared to the exam recommendations borne out of a successfully completed, psychometrically led PAKS process. Through the PAKS, it was determined that the following exams could be developed:

1. PS Core exam with 70 items and a 5-hour appointment time
2. PS Boundary exam with 65 items and a 5-hour appointment time
3. PS PLSS exam with 75 items and a 5-hour appointment time
4. PS Mapping Science exam with 75 items and a 5-hour appointment time

The 2019 Surveying Exam Module Task Force's motion was put forward and gained approval under the perception that adding any or all of the 2.5-hour exams with a length of 25 items did not create a significant barrier to licensure. However, upon the completion of the 2022 PAKS, the results contradict the 2019 motion and many of its assumptions, and adding these exams can now be viewed as creating barriers to licensure.

As per exam development policies and procedures, NCEES conducts a PAKS to determine if an examination is needed, and if needed, what topics are to be included on the test blueprint. NCEES follows industry testing standards and psychometric protocols to develop reliable and defensible exams. A PAKS asks professionals, in this case licensed surveyors who were actively practicing within their jurisdiction, to rate the importance level of knowledge and task statements as developed by a panel of professional surveyors. Data was collected from over 1,000 responses and used by the current EPS Committee in its efforts to address this charge.

The process and procedures implemented in the review for PS divisional exams were based on data generated by the five PAKS surveys conducted in 2022 and on input from member boards at various forums over the last three years. While many considerations were regarded during the process, the following considerations contributed primarily to this committee's final conclusions:

- Reduction of barriers to licensure, which included the number of exams and cost per exam
- Impact of divisional exams on jurisdictional exams and the possible reduction of or format changes for those exams
- Implications of existing state statutes/rules and how they relate to changing the existing PS exam to multiple divisions



NCEES

advancing licensure for
engineers and surveyors

MOTIONS TO BE PRESENTED AT THE 2023 ANNUAL MEETING

Special Committee on Bylaws (4 motions)

Bylaws Motion 1

Move that *Bylaws* 4.05 be amended as follows:

Section 4.05 Qualifications. Any member of NCEES who is a citizen of the United States and a member of a Member Board sometime during the calendar year in which the nomination occurs is eligible to hold an elective office. Associate members are not eligible to serve on the NCEES Board of Directors.

To be eligible for the office of President-Elect, a person shall be a licensed [professional](#) engineer, ~~or licensed professional~~ surveyor, [or public member](#); shall have been a member of NCEES at least three years, and shall have attended at least two NCEES Annual Business Meetings.

Members of the [current](#) Board of Directors [whose term on their Member Board has expired during their term as NCEES Treasurer or Vice-President](#) may run for President-Elect if

- ~~■ Their term on their state board has expired during their term as NCEES Treasurer or Vice-President;~~
- They have obtained emeritus standing within the Council, ~~they have the approval of their state board;~~ [and](#)
- [They have the approval of their Member Board; and](#)
- It is their zone's rotation to elect a President-Elect; and
- They have been nominated by the zone.

The President-Elect shall not be from the same zone as the President.

To be eligible for the office of Treasurer, a person shall be a licensed professional engineer, licensed professional surveyor, or public member.

To be eligible for the office of Vice President, a person shall be a licensed professional engineer, ~~or licensed professional~~ surveyor, [or public member](#) and shall be from the zone that elects him or her.

Rationale

The Special Committee on Bylaws received a charge to review changes to *Bylaws* 4.05 as presented by ACCA and approved by the Council at the 2022 annual meeting. The amendment is to clarify the eligibility of members of the board of directors to run for president-elect and to modify the qualifications for the offices of president-elect and zone vice president to include public members as eligible to serve in that capacity.

Board of directors' position

Endorses, consent agenda

Bylaws Motion 2

Move that *Bylaws* 3.021 be amended as follows:

Section 3.021 Associate Members. An Associate Member of NCEES shall be a designee of a Member Board, but not a member of a Member Board, who is appointed by the NCEES Board of Directors as an Associate Member of NCEES.

Recommendations for associate members of NCEES shall be submitted by Member Boards to the Board of Directors and become effective upon appointment by the Board of Directors. Such appointments shall be reviewed annually by each Member Board and shall remain in effect until the Board of Directors is notified otherwise by the Member Board.

Associate Members of NCEES shall have the privilege of the floor at meetings of the Council. Associate Members may serve on any committee or task force to which duly appointed under the *Bylaws*. Associate Members are

eligible to hold the elective office of zone Secretary-~~Treasurer~~ but are not eligible to serve on the NCEES Board of Directors.

Rationale

Monies for each zone meeting are now handled through the budget approval process. Therefore, the sole duty of the zone officer currently titled “Secretary-Treasurer” is to act as the secretary for the zone. The title change is proposed to reflect the duties of the office, which no longer include handling zone financial affairs or submitting financial statements.

Board of directors’ position

Endorses, consent agenda

Bylaws Motion 3

Move that *Bylaws* 3.09 be amended as follows:

Section 3.09 Zone Organization. Each zone shall adopt the *Zone Meeting and Continuity Guidelines* for its organization and operation consistent with and in conformity to the NCEES *Bylaws*.

Each zone shall submit copies of its minutes to the Council at the Annual Business Meeting of the Council. Each zone shall elect an Assistant Vice President who shall serve a two-year term concurrent with the Vice President. The Assistant Vice President shall assist the Vice President, shall perform the duties outlined in the *Zone Meeting and Continuity Guidelines*, and shall perform all duties of the Vice President in the event that the Vice President is unable to perform for any reason. This shall include fulfilling the duties as Vice President on the Board of Directors.

Each zone shall elect a Secretary-~~Treasurer~~. Members and associate members shall be eligible to hold the office of Secretary-~~Treasurer~~. The Secretary-~~Treasurer~~ shall keep and have published zone minutes and maintain records of zone activities.

Administration of the financial affairs of the zone shall be consistent with those of the Council as governed by the Council’s Articles of Incorporation and the *Bylaws*.

Rationale

Monies for each zone meeting are now handled through the budget approval process. Therefore, the sole duty of the zone officer currently titled “Secretary-Treasurer” is to act as the secretary for the zone. The title change is proposed to reflect the duties of the office, which no longer include handling zone financial affairs or submitting financial statements.

Board of directors’ position

Endorses, consent agenda

Bylaws Motion 4

Move that *Bylaws* 11.04 be amended as follows:

Section 11.04 Election of Vice Presidents. Vice Presidents from the Southern and Northeast Zones shall be elected at their Zone Interim Meeting in odd-numbered years. Vice Presidents from the Central and Western Zones shall be elected at their Zone Interim Meeting in even-numbered years.

The Secretary-~~Treasurer~~ of the zone shall file with the Chief Executive Officer the name of the zone-elected Vice President and Assistant Vice President not less than 60 days prior to the opening of the Annual Business Meeting of the Council.

Rationale

Monies for each zone meeting are now handled through the budget approval process. Therefore, the sole duty of the zone officer currently titled “Secretary-Treasurer” is to act as the secretary for the zone. The title change is proposed to reflect the duties of the office, which no longer include handling zone financial affairs or submitting financial statements.

Board of directors’ position

Endorses, consent agenda

Advisory Committee on Council Activities (2 motions)

ACCA Motion 1

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* 3.021:

Section 3.021 Associate Members. An Associate Member of NCEES shall be a designee of a Member Board, but not a member of a Member Board, who is appointed by the NCEES Board of Directors as an Associate Member of NCEES.

Member Board Administrators shall automatically be designated as an associate member. Recommendations for other associate members of NCEES shall be submitted by Member Boards to the Board of Directors and become effective upon appointment by the Board of Directors. Such appointments shall be reviewed annually by each Member Board and shall remain in effect until the Board of Directors is notified otherwise by the Member Board.

Associate Members of NCEES shall have the privilege of the floor at meetings of the Council. Associate Members may serve on any committee or task force to which duly appointed under the *Bylaws*. Associate Members are eligible to hold the elective office of zone Secretary-Treasurer but are not eligible to serve on the NCEES Board of Directors.

Rationale

MBAs are a vital part of NCEES, and almost every MBA is named an associate member in due course. This change would streamline the process for designating MBAs associate members. Other member board staff who wish to be designated associate members would need to continue to go through the formal process.

Board of directors' position

Endorses, consent agenda

ACCA Motion 2

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* Section 4.05:

Section 4.05 Qualifications. Any member of NCEES who is a citizen of the United States and a member of a Member Board sometime during the calendar year in which the nomination occurs is eligible to hold an elective office. Associate members are not eligible to serve on the NCEES Board of Directors.

To be eligible for the office of President-Elect, a person shall be a licensed professional engineer, licensed professional surveyor, or public member; shall have been a member of NCEES at least three years; and shall have attended at least two NCEES Annual Business Meetings.

Members of the current Board of Directors whose term on their Member Board has expired ~~during their term as NCEES Treasurer or Vice President~~ may run for President-Elect if

- They have obtained emeritus standing within the Council; and
- They have the approval of their Member Board; and
- It is their zone's rotation to elect a President-Elect; and
- They have been nominated by the zone.

The President-Elect shall not be from the same zone as the President.

To be eligible for the office of Treasurer, a person shall be a licensed professional engineer, licensed professional surveyor, or public member.

To be eligible for the office of Vice President, a person shall be a licensed professional engineer, licensed professional surveyor, or public member and shall be from the zone that elects him or her.

Rationale

ACCA believes that once a member board member is elected zone vice president or treasurer, they should be able to continue through the entire leadership pathway (vice president/treasurer, president-elect, president, and immediate past president) even if their term on their member board expires prior to the end of this pathway.

Board of directors' position

Endorses, non-consent agenda

Committee on Education (3 motions)

Education Motion 1

Move that the NCEES Surveying Education Award program be modified to include two-year programs offering surveying education through articulation agreements with four-year college/university programs.

Rationale

The committee feels that two-year programs that lead to a four-year degree in surveying, geomatics, etc., should be recognized for their work through the NCEES Surveying Education Award program. The committee requests that staff develop the program and bring a recommendation back to the committee as soon as possible.

Financial impact

The estimated budget impact is \$50,000 per year.

Board of directors' position

Endorses, consent agenda

Education Motion 2

Move that the Committee on Uniform Procedures and Legislative Guidelines be charged with incorporating the following amendments into *Model Rules 240.30 B*:

240.30 Continuing Professional Competency

B. Definitions

Terms used in this section are defined as follows:

1. Professional Development Hour (PDH)—One contact hour (nominal) of instruction or presentation. The PDH is the common denominator for other units of credit.
 - a. The term “contact hour” is defined as a minimum of 50 minutes of course/activity.
 - b. The total number of hours allowed for a course/activity cannot exceed the actual number of clock hours.
2. Ethics Course or Activity—A qualifying course or activity with content areas related to (1) the awareness of ethical concerns and conflicts, (2) an enhanced familiarity with the codes of conduct, or (3) an understanding of standards of practice or care.
- ~~3~~4. Ethics/Business-Related Course or Activity—A qualifying course or activity with content areas related to (1) the awareness of ethical concerns and conflicts; (2) an enhanced familiarity with the codes of conduct; (3) an understanding of standards of practice or care (4) project management and risk-assessment management; or (5) other similar topics aimed at maintaining, improving, or expanding the skills set and knowledge relevant to the licensee’s field and methods of practice.
- ~~4~~5. Continuing Education Unit (CEU)—Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours in an approved continuing education course.
- ~~5~~6. College Semester/Quarter Hour—Credit for course in ABET-accredited programs or other related college course approved in accordance with subsection E of this section.
- ~~6~~7. Course/Activity—Any qualifying course or activity with a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee’s field of practice. Regular duties are not considered qualified activities.
- ~~7~~8. Dual Licensee—An individual who is licensed as both a professional engineer and a professional surveyor

Rationale

The definitions contained within *Model Rules 240.30 B* are accurate; the committee is only proposing revisions to define ethics separately from business-related courses. The committee noted that several jurisdictions require an ethics course as part of continuing education requirements for license renewal, and separating the definitions will make it clear that such a course should be in ethics and not business practices.

Board of directors' position

Endorses, consent agenda

Education Motion 3

Move that the Committee on Uniform Procedures and Legislative Guidelines be charged with incorporating amendments to *Model Rules* 240.30 to accommodate the following definition for the NCEES Continuing Professional Competency Standard:

240.30 Continuing Professional Competency

I. [NCEES CPC Standard Definition](#)

[The NCEES CPC Standard requires a licensee to obtain the equivalent of 15 PDHs per calendar year \(January 1–December 31\) with no carryover allowed. A minimum of 1 PDH of the 15 PDHs shall be earned by successfully completing a course or activity that has a content area focusing on engineering or surveying ethics.](#)

Rationale

The *Model Rules* and *CPC Guidelines* reference the NCEES CPC Standard, but a search of the NCEES website is required to find the standard. The committee believes that incorporating the standard's definition in the *Model Rules* will make it easier for jurisdictions to use and reference.

Board of directors' position

Endorses, non-consent agenda

Committee on Examination Policy and Procedures (10 motions)

EPP Motion 1

Move that Exam Development Policy 2 be amended as follows:

EDP 2 Examination ~~Quality~~ [Development](#) Standards

The goal of the NCEES examinations program shall be for the development, use, and scoring of examinations prepared by, or under control of, NCEES to comply with the current edition of *Standards for Educational and Psychological Testing*—as published jointly by the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education—or other nationally accepted standards.

Rationale

The committee believes this policy deals with more topics than just exam quality and that a broader title provides more clarity.

Board of directors' position

Endorses, consent agenda

EPP Motion 2

Move that Exam Development Policy 3 be amended as follows:

EDP 3 Engineering and Surveying Examinations and Formats

B. Principles and Practice of Engineering Examinations

The Principles and Practice of Engineering examinations shall be offered in the following disciplines and shall be open-book, [via](#) pencil-and-paper examinations or offered closed-book via CBT with supplied references as defined in EAP 4:

24. Structural

The PE Structural examination shall consist of two components: ~~the Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake) component.~~ [The PE Structural examination and](#) shall be considered and referred to as one examination.

D. Examination Item Banks

Examination items for all examinations shall be maintained either at NCEES headquarters or at an

offsite testing service that is able to demonstrate insurance, bond, or reserve to cover the pecuniary liability for the items should the items be compromised, lost, or damaged by the testing service.

1. At the time an exam development committee releases a linear, ~~fixed-~~ form (LFF) exam to be published, the exam item bank shall contain sufficient operational items to create three times the number of exam forms available to examinees in a testing window.
2. At the time an exam development committee releases a pool of items to be published for linear-on-the-fly testing (LOFT), the pool shall contain, at a minimum, the number of operational items required to create three unique, non-overlapping exam forms. At the time of publishing, the exam item bank shall have sufficient operational items to create two additional pools of similar composition. Pool size ~~will~~ shall be determined by the psychometric consultant per the criteria listed in the NCEES *Exam Development Procedures Manual*.

F. Exam Preparation Material Development

Exam preparation material shall be developed for each NCEES examination. This material shall ~~provide~~ include both a standard reference handbook and sample questions and solutions on each major topic area sufficient to provide candidates with a sense of the structure, scope, and difficulty of the examination. ~~Exam preparation material shall remain current and be available six months prior to the administration of an examination. Standard reference handbooks shall be made available to candidates six months prior to the exam administration during an exam re-specification year and a minimum of three months prior to the exam administration during a standard exam administration year. Sample questions and solutions materials shall remain current and be available six months prior to the administration of an examination during a re-specification year.~~

Rationale

The committee felt that this policy included extraneous information regarding the PE Structural exam. While no other exam has multiple components and it is important to clarify terminology, the additional information, although correct, is unnecessary and should be eliminated for clarity and consistency.

After consulting with NCEES staff responsible for the dissemination of exam preparation material, the committee felt revisions were required to include the standard reference handbook and a minimum delivery time for these materials.

Board of directors' position

Endorses, consent agenda

EPP Motion 3

Move that Exam Development Policy 4 be amended as follows:

EDP 4 Entry of New Discipline or Depth Module or Reinstatement of PE Examination Status

- A. Accreditation Requirement
No discipline shall be added or reinstated to the examination program unless there is an EAC/ABET-accredited program in the discipline that offers an undergraduate degree program or there is a graduate degree program focused on the examination topic area.
- B. Professional or Technical Society Involvement
No discipline shall be added or reinstated unless a national professional or technical society agrees to support the examination. All professional or technical societies that support examinations shall sign an agreement with NCEES delineating the responsibilities of both parties.
- C. Member Board Requirement
Requests for examinations and/or depth modules shall be made by no fewer than 10 member boards collectively who can each demonstrate a need for the examination or depth module in their jurisdiction by each providing a letter of support for the new discipline or depth module in accordance with paragraph D. A request older than four years must be reaffirmed by the member boards.
- D. Letters of Support
All ~~R~~ requests shall include proof of such need, an estimate of usage, and the impact on safeguarding the health, safety, and welfare of the public. Proof of need shall include evidence that knowledge areas and skills are not adequately measured in an existing examination or module and that

additional knowledge areas and skills required for the discipline are sufficient to support a new examination or module. [The estimate of usage shall include the methodology used to derive that estimate.](#)

DE. Minimum Number of Exam Candidates

No discipline or depth module shall be added or reinstated to the examination program unless the number of candidates for an ongoing examination conforms to NCEES policies and procedures. If that is demonstrated, a professional activities and knowledge study (PAKS) shall be conducted to establish that the addition in question ~~is composed of~~ [comprises](#) a unique ~~set~~ [body](#) of knowledges important for safeguarding the health, safety, and welfare of the public.

EF. CBT Format

The request shall include a plan to develop the exam in CBT format.

FG. Notification to Member Boards

Member boards shall be notified one year in advance of the addition or reinstatement of any discipline or depth module to the PE examination program.

H. [Requests to Divide an Existing Examination](#)

[Requests to divide an existing examination into multiple examinations shall be made to the Committee on Examinations for Professional Engineers \(EPE\). Requests shall include proof of such need in accordance with sections A–D of this policy.](#)

Rationale

These changes align the language of EDP 4 and EDP 9 to clarify the expectations of supporting member boards. Specifically, the changes clarify the types of degrees required and that, while local support is valued, broad technical or professional society involvement is required. It also incorporates language previously contained in EDP 6 for clarity and consistency.

Board of directors' position

Endorses, consent agenda

EPP Motion 4

Move that Exam Development Policy 5 be amended as follows:

EDP 5 Adoption of a New Discipline-Specific FE Examination

A. Accreditation Requirement

No discipline-[specific FE examination](#) shall be added to the examination program unless there is an EAC/ABET-accredited program in the discipline.

B. Member Board Requirement

[A R](#)requests for ~~the a~~ discipline-specific FE examination must be made by no fewer than 10 member boards collectively who can each demonstrate a need for that discipline in their jurisdiction. Requests shall include proof of such need, [an](#) estimate of usage, and [the](#) impact on safeguarding the health, safety, and welfare of the public. Proof of such need shall include evidence that knowledge areas and skills are not adequately measured in an existing FE examination and evidence that those knowledge areas and skills required for the discipline are sufficient to support a new FE examination. [The estimate of usage shall include the methodology used to derive that estimate.](#)

C. Notification to Member Boards

Member boards shall be notified at least one year in advance of the addition of any discipline-specific ~~module to the~~ FE examination ~~program~~.

Rationale

These changes align the language of EDP 4 and EDP 5 and clarify the expectations of supporting member boards.

Board of directors' position

Endorses, consent agenda

EPP Motion 5

Move that Exam Development Policy 6 be deleted.

EDP 6 Dividing an Existing Examination into Multiple Examinations

~~Requests to divide an existing examination into multiple examinations should be made to the Committee on Examinations for Professional Engineers (EPE) or the Committee on Examinations for Professional Surveyors (EPS). Requests shall include proof of such need (PAKS), estimate of usage, and impact on safeguarding the health, safety, and welfare of the public. Requests shall include evidence that knowledge areas and skills required for the discipline are sufficient to support separate examinations. The EPE/EPS Committee will perform due diligence with regard to the request and make a recommendation to the board of directors for action. Requests to create an examination for which there are no existing depth modules shall comply with EDP 5.~~

Rationale

EDPs 4–7 deal with similar topics. After considering them together, the committee determined that EDP 6 addresses creating a new examination by dividing an existing examination, and therefore its contents would be more appropriately incorporated within EDP 4 and EDP 9.

Board of directors' position

Endorses, consent agenda

EPP Motion 6

Move that Exam Development Policy 7 be amended as follows:

EDP 7 Deleting/Combining/Renaming a Discipline or Module from the Examination Program

B. Deleting/Combining CBT Examinations

1. Continue to prepare the examination or module.
2. Request the appropriate exam development committee and the supporting technical society to prepare and submit a specific remedial action plan for increasing the number of first-time takers to a level that meets or exceeds the minimum candidate requirements in the time period specified by the EPP Committee.
3. Place the examination, section, or module on probation. The EPP Committee shall specify the conditions of the probation, including a time frame for corrective action. The recommendation may include ~~the combination of the examination with another examination or other~~ such action as the EPP Committee deems appropriate.
4. Discontinue the examination, section, or module.
5. Combine the examination, section, or module with another examination, section, or module.

C. Request to Delete an Examination, Section, or Module

If an NCEES committee, technical society, or other group desires to have an examination, section, or module deleted, it should make a request to the EPE/EPS Committee. The EPE/EPS Committee ~~will~~ shall review the request and make a recommendation to the board of directors.

Rationale

The committee proposes adding the term “section,” as used in the computer-based PE Structural examination, to clarify that the combination of an examination, section, or module can be a separate outcome and not strictly associated with placing the examination, section, or module on probation.

Board of directors' position

Endorses, consent agenda

EPP Motion 7

Move that Exam Development Policy 9 be amended as follows:

EDP 9 Adoption of a New Depth Module or Division of an Existing Examination into Multiple Examinations for the PS Examination

A. Member Board Requirement

Requests for depth modules shall be made by no fewer than 10 member boards collectively who can each demonstrate a need for the depth module in their jurisdiction. A request older than four years must be reaffirmed by the member boards. Requests shall include proof of such need, an estimate of usage, and the impact on safeguarding the health, safety, and welfare of the public. Proof of need shall include evidence that knowledge areas and skills are not adequately measured in an existing examination or module and that additional knowledge areas and skills required for the discipline are sufficient to support a new module. The estimate of usage shall include the methodology used to derive that estimate.

B. Minimum Number of Exam Candidates

No discipline or depth module shall be added or reinstated to the examination program unless the number of candidates for an ongoing examination conforms to NCEES policies and procedures. If that is demonstrated, a professional activities and knowledge study (PAKS) shall be conducted to establish that the addition in question ~~is composed of~~ comprises a unique ~~set~~ body of knowledges important for safeguarding the health, safety, and welfare of the public.

F. Requests to Divide an Existing Examination

Requests to divide an existing examination into multiple examinations shall be made to the Committee on Examinations for Professional Surveyors (EPS). Requests shall include proof of such need in accordance with paragraphs A and B of this policy.

Rationale

These changes align the language of EDP 4 and EDP 9 to clarify the expectations of supporting member boards.

Board of directors' position

Endorses, consent agenda

EPP Motion 8

Move that Exam Development Policy 10 be amended as follows:

EDP 10 Item Writers, Pass-Point Evaluators, Reviewers, and Scorers

C. Restriction on Teaching Refresher Courses

Any person serving on an NCEES examination development committee or involved in a pass-point evaluation panel shall not teach a refresher course related to the preparation for that examination within three years after of serving on the committee or panel.

Rationale

EDP 10 was reexamined after amendments were approved at the 2022 NCEES annual meeting. The intention is not to prohibit these individuals from teaching normal coursework that would naturally prepare a candidate for an exam as part of their regular education but to prohibit teaching a specific class expressly designed to help a candidate prepare for the exam. Adding the word “refresher” back returns clarity to this policy’s intent.

Board of directors' position

Does not endorse, non-consent agenda

Board of directors' rationale

The board is not endorsing the motion because it feels that the term “refresher” is too limiting and that a more comprehensive description for courses taught specifically to aid someone in passing an NCEES examination is needed.

EPP Motion 9

Move that Exam Administration Policy 2 be amended as follows:

EAP 2 Examination Schedules

~~A. Pencil and Paper Examinations~~

~~A schedule of examination dates shall be published for the PE Structural examination, and the schedule shall be updated annually by NCEES staff and affirmed by the board of directors. NCEES will administer examinations in the published timeframes or on the published dates as noted in the *Security and Administrative Procedures Manual*. The schedule shall be updated annually by NCEES staff. The examination dates should avoid conflicts with public and religious holidays.~~

~~NCEES will schedule and administer the PE Structural examination on the published dates. The Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake) component will be administered on subsequent days.~~

Any request for a deviation from this policy must be submitted within the prescribed lead time to be considered for approval. A request for any deviation must conform to the applicable NCEES guidelines and must be approved by the NCEES compliance and security manager. Each request will be reviewed on its own merits.

~~B. CBT Examinations~~

~~NCEES will administer CBT examinations in the published timeframes or on the published dates as noted in the *Security and Administrative Procedures Manual*. The schedule shall be updated annually by NCEES staff and affirmed by the board of directors.~~

Rationale

These changes eliminate language that is not needed today and will not be needed after the conversion of the PE Structural examination to computer-based testing.

Board of directors' position

Endorses, consent agenda

EPP Motion 10

Move that Exam Administration Policy 8 be amended as follows:

EAP 8 Release and Use of Examination Results

D. Structural Engineering Examinations (Pencil-and-Paper Examinations)

~~For the PE Structural examination, a candidate may sit for either component in separate exam administrations but must receive acceptable results on both components within a five-year period in order to pass the examination.~~

A component results notice will be transmitted to the member board for each administration in which a candidate takes a component. Receiving an acceptable result on only one 8-hour component shall not be sufficient for any licensure purposes. After a candidate has received an acceptable result on both components, an examination pass notice will be transmitted to the member board to indicate that the candidate has passed the PE Structural examination.

E. Structural Engineering Examinations (CBT)

~~A section results notice will be transmitted to the member board for each administration in which a candidate takes a section. Receiving an acceptable result on only one section shall not be sufficient for any licensure purposes. After a candidate has received an acceptable result on all sections, an examination pass notice will be transmitted to the member board to indicate that the candidate has passed the PE Structural examination.~~

~~EF. Release to Universities and Colleges~~

~~NCEES may provide directly to a university or college FE or FS examination data that will help measure learning outcomes of the total engineering or surveying education.~~

Rationale

For 2023–24, the PE Structural exam will be administered in both pencil-and-paper and computer-based formats. Additional language is needed to delineate how these results will be transmitted to accurately reflect the terminology related to components versus sections.

The committee reviewed the five-year time period requirement for PE Structural examinees to achieve acceptable results on all portions of the exam and determined that it should be eliminated to make it consistent with other PE examinations.

Board of directors' position

Endorses, consent agenda

Committee on Examinations for Professional Surveyors (1 motion)

EPS Motion 1

Move that NCEES develop a Public Land Survey System module to be used in conjunction with the Principles and Practice of Surveying examination for jurisdictions that require such an exam.

Rationale

[Rationale is not yet finalized.]

Financial impact

Expenses related to developing the PLSS module in 2023–24 would be \$51,900.

Board of directors' position

Does not endorse, non-consent agenda

Board of directors' rationale

[Rationale is not yet finalized.]

Committee on Finances (4 motions)

Finance Motion 1

Move that the adoption of the 2023–24 operating budget as shown in **Appendix B** be postponed to the end of the last business session in order to take into account any subsequent actions adopted by the Council that may affect this budget.

Board of directors' position

Endorses, consent agenda

Finance Motion 2

Move that the adoption of the 2023–24 capital budget as shown in **Appendix C** be postponed to the end of the last business session in order to take into account any subsequent actions adopted by the Council that may affect this budget.

Board of directors' position

Endorses, consent agenda

Finance Motion 3

Move that Financial Policy 1C be amended as follows:

FP 1 Council Funds

- € The reserve funds (current tangible assets plus tangible marketable long-term investments minus current liabilities) should be accumulated to and maintained at a level sufficient for each of the following:
1. A designated reserve equal to a minimum amount of ~~100~~75 percent of the annual operating budget
 2. A designated exam breach reserve equal to the computed cost of a probable or potential exam breach based on the current approved item replacement costs
 3. A data breach reserve equal to the anticipated costs of such an incident, including lost revenue during recovery, less insurance provisions
 4. A building reserve for long-range capital improvements and ~~replacements for the NCEES headquarters building~~ system and/or component replacements

Rationale

The committee recommends that the current language in FP 1C be revised to reflect the financial changes to the reserve provisions and to clarify the intent of the NCEES headquarters building reserve.

Board of directors' position

Endorses, consent agenda

Finance Motion 4

Move that Financial Policy 6 be amended to add the Public Land Survey System module for the Principles and Practice of Surveying exam at a price of \$325, effective January 1, 2025.

Rationale

Implementation of the PLSS module for the PS exam will require an exam price.

Board of directors' position

Endorses, consent agenda

Committee on Law Enforcement (1 motion)

Law Enforcement Motion 1

Move that the following paragraph be added to Financial Policy 3:

FP 3 Travel Expenses**F. [Approved Law Enforcement meetings](#)**

1. [Members of the current NCEES board of directors as authorized by the president](#)
2. [A designated enforcement person from each member board](#)

Financial impact

Assuming that one individual each from 30 member boards would attend the Law Enforcement Program at the NCEES annual meeting, the financial impact would be approximately \$60,400. This total includes travel, hotel, funding check, parking, and other meeting expenses.

Rationale

The Law Enforcement Program at the annual meeting includes a forum and workshop that provide important learning and collaboration opportunities for individuals involved in enforcement issues. Thus, funding someone designated by the board to handle enforcement issues is highly recommended. The proposed amendment to FP 3 mirrors the policy language for approved member board administrator meetings (paragraph E of FP 3), which provides funding for the MBA Meeting.

Board of directors' position

Endorses, consent agenda

Committee on Uniform Procedures and Legislative Guidelines (27 motions)

UPLG Motion 1

Move that the term "certificate of licensure" used throughout the *Model Law* and *Model Rules* be replaced with the term "license" and that NCEES staff be directed to make the modifications when the model documents are revised after the 2023 NCEES annual meeting.

Rationale

UPLG believes that the term "certificate of licensure" more closely relates to a printed or paper document, rather than a credential. Therefore, there are several places where the term could simply be replaced with "license." It should be noted when the existing language is referring to a printed or paper document, that change is not necessarily needed.

This one motion will allow the change to be made without having separate motions to make the edit each time the term is used.

Board of directors' position

Endorses, consent agenda

UPLG Motion 2

Move that the terms “licensed engineer” and “licensed surveyor” used throughout the *Model Law* and *Model Rules* be replaced with the terms “professional engineer” and “professional surveyor” respectively and that NCEES staff be directed to make the modifications when the model documents are revised after the 2023 NCEES annual meeting.

Rationale

UPLG feels that the definitions for “professional engineer” and “professional surveyor” specify that individuals are licensed and, therefore, proposes the motion above for consistency throughout the model documents. This one motion will allow the changes to be made without having separate motions to make edits each time the terms are used.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 3

Move that *Model Law* 110.20 A be amended as follows:

110.20 Definitions

A. Professional Engineer

- ~~1. Engineer—The term “Engineer,” within the intent of this Act, shall mean an individual who is qualified to practice engineering by reason of engineering education, training, and experience in the application of engineering principles and the interpretation of engineering data.~~
2. Professional Engineer—The term “Professional Engineer,” as used in this Act, shall mean an individual who is qualified to practice engineering by reason of engineering education, training, experience, and examination in the application of engineering principles and the interpretation of engineering data and who has been duly licensed as a professional engineer by the board. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the engineer has demonstrated competence.

Rationale

The term “professional engineer” is used throughout the model documents, and the term “engineer” by itself is not used. Since this model document is for licensure, the term “engineer” should be eliminated and the definition of “professional engineer” revised as shown in the motion. The remaining definitions (currently A.3–6) will be reorganized as necessary to align with this revision.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 4

Move that *Model Law* 110.20 A be amended as follows:

110.20 Definitions

5. Practice of Engineering—The term “Practice of Engineering,” as used in this Act, shall mean any service or creative work requiring engineering education, training, and experience in the application of engineering principles and the interpretation of engineering data to engineering activities, including the engineering design of buildings, structures, products, machines, processes, and systems, that potentially impact the health, safety, and welfare of the public.

The services may include, but not be limited to, providing planning, studies, designs, design coordination, drawings, specifications, and other technical submissions; ~~teaching engineering design courses~~ commissioning of engineered systems; performing surveying that is incidental to the practice of engineering; and reviewing construction or other design products for the purposes of monitoring compliance with drawings and specifications related to engineered works.

Surveying incidental to the practice of engineering ~~excludes the surveying of real property for the establishment of land boundaries, rights of way, easements, and the dependent or independent surveys or~~

[resurveys of the public land survey system is limited to conducting field measurements to supplement the documentation of existing conditions.](#)

An individual shall be construed to practice engineering, within the meaning and intent of this Act, if he or she does any of the following:

- a. Practices any discipline of the profession of engineering or holds himself or herself out as able and entitled to practice any discipline of engineering
- b. Represents himself or herself to be a professional engineer by verbal claim, sign, advertisement, letterhead, or card or in any other way
- c. Through the use of some other title, implies that he or she is a professional engineer under this Act

Rationale

The revision has several parts. First, *Model Law* 170.20, Engineered Products and Systems, has been moved into this definition. Second, to address Charge 4, the committee used Position Statement 29, Commissioning of Engineered Systems, as the basis for adding engineered system commissioning to the definition. Third, while having the teaching of engineering design courses be part of the practice of engineering may be desirable, in practice this does not appear to be happening in universities across the country, making enforcement nearly impossible. And last, surveying incidental to the practice of engineering has been amended from what is excluded to what is allowed.

Board of directors' position

Endorses, non-consent agenda

UPLG Motion 5

Move that *Model Law* 110.20 B be amended as follows:

110.20 Definitions

B. Professional Surveyor (Professional Land Surveyor, Professional Surveyor and Mapper, Geomatics Professional, or equivalent term)

~~1. Professional Surveyor—The term “Professional Surveyor,” as used in this Act, shall mean an individual who is qualified to practice surveying by reason of surveying education, training, experience, and examination in the application of surveying principles and the interpretation of surveying data and who has been duly licensed as a professional surveyor by the board established under this Act and who is a professional specialist in the technique of measuring land, educated in the basic principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence and all requisite to surveying of real property, and engaged in the practice of surveying as herein defined.~~

Rationale

The term “professional surveyor” was modified to make it similar to the definition of “professional engineer.” The section that was removed from the definition of “professional surveyor” is included in the “practice of surveying” definition later in the same section. The remaining definitions (currently B.2–5) will be reorganized as necessary to align with this revision.

Board of directors' position

Endorses, consent agenda

UPLG Motion 6

Move that *Model Law* 110.20 J be amended as follows:

110.20 Definitions

J. Signature—The term “Signature,” as used in this Act, shall ~~be in accordance with the Rules~~ [mean a name, mark, or writing made by the professional engineer or professional surveyor at their direction used with the intention of verifying or authenticating a document.](#)

[Electronic or Digital Signature—The term “Electronic or Digital Signature” shall mean an electronic sound, symbol, process, or secure digital code that uniquely identifies and authenticates the sender, attached to or logically associated with an electronically transmitted record and executed or adopted by a person with the intent to sign the record.](#)

Rationale

The committee found that the term “signature” was not defined in the *Model Rules* and believes that the best place to define it is in the Definitions section of the *Model Law*.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 7

Move that *Model Law* 110.20 N be amended as follows:

110.20 Definitions

N. Authoritative—The term “Authoritative,” as used in this Act or Rules promulgated under this Act, shall mean being presented as trustworthy and competent when used to describe products, processes, applications, or data, [resulting derived](#) from the practice of surveying, [that results in a description that meets or exceeds the positional accuracy for the location of a feature, object, or boundary](#).

Rationale

UPLG is proposing these revisions to help to clarify the definition of “authoritative.”

Board of directors’ position

Endorses, consent agenda

UPLG Motion 8

Move that *Model Law* 110.20 O be amended as follows:

110.20 Definitions

O. Disciplinary Action—The term “Disciplinary Action,” as used in this Act, shall mean any final written decision or settlement taken against an individual or firm by a licensing board based upon a violation of the board’s laws and rules. [Disciplinary actions include reprimands; sanctions; administrative fines; the board’s refusal to issue, restore, or renew a license; settlement agreements or consent orders; probation; suspension; revocation; surrendering, relinquishing, or agreeing not to renew the license as part of an agreement or board order; or any combination thereof.](#)

Rationale

The definition for “disciplinary action” was revised based on the motion put forth by the Committee on Law Enforcement (Motion 2) and passed at the 2022 annual meeting. The amendment was presented to provide examples of disciplinary actions to clarify the definition.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 9

Move that *Model Law* 120.20 be amended as follows:

120.20 Board Qualifications

Each professional engineer member of the board shall be a citizen of the United States and a resident of this jurisdiction. He or she shall have been engaged in the lawful practice of engineering as a professional engineer [for at least 12 years](#), shall have been in responsible charge of engineering projects for at least five years, and shall be a licensed professional engineer in this jurisdiction.

Each professional surveyor member of the board shall be a citizen of the United States and a resident of this jurisdiction. He or she shall have been engaged in the lawful practice of surveying as a professional surveyor [for at least 12 years](#), shall have been in responsible charge of surveying projects for at least five years, and shall be a licensed professional surveyor in this jurisdiction.

Each public member of the board shall be a citizen of the United States and a resident of this jurisdiction and shall not be or have been a licensee.

Rationale

The revisions are to make this section more in line with current practice in some jurisdictions. Practicing as a professional for 12 years before board consideration could be viewed as an unnecessary barrier to getting newer licensees appointed to a jurisdiction's board. The committee felt this change would allow for a younger person to be considered for the board while still maintaining that the professional engineer or surveyor has been in responsible charge for at least five years.

Board of directors' position

Endorses, non-consent agenda

UPLG Motion 10

Move that *Model Law* 120.60 B be amended as follows:

120.60 Board Powers

B. In carrying into effect the provisions of this Act, the board may subpoena witnesses and compel their attendance and may ~~also~~ require the submission of ~~books, papers, documents, or other~~ pertinent [records and data](#), in any disciplinary matter, or in any case wherever a violation of this Act is alleged. Upon failure or refusal to comply with any such order of the board or upon failure to honor its subpoena, as herein provided, the board may apply to a court of competent jurisdiction to enforce compliance with same.

Rationale

The revisions are to make this section more in line with current practice and for clarity.

Board of directors' position

Endorses, consent agenda

UPLG Motion 11

Move that *Model Law* 130.10 B be amended as follows:

130.10 General Requirements for Licensure

B. Engineering

2. Licensure as a Professional Engineer

[The board may designate a professional engineer as being licensed in a specific discipline or branch of engineering, signifying the area in which the engineer has demonstrated competence.](#)

a. Initial Licensure as a Professional Engineer

An applicant who presents evidence of meeting the applicable education, examination, and experience requirements as described below shall be eligible for licensure as a professional engineer.

Rationale

The addition of this language is for jurisdictions that license by discipline.

Board of directors' position

Endorses, consent agenda

UPLG Motion 12

Move that *Model Law* 130.10 B be amended as follows:

130.10 General Requirements for Licensure

B. Engineering

2. Licensure as a Professional Engineer

a. Initial Licensure as a Professional Engineer

(2) Examination Requirements

An individual seeking licensure as a professional engineer shall take and pass the NCEES Fundamentals of Engineering (FE) examination and the NCEES Principles and Practice of Engineering (PE) examination, ~~as described below and any jurisdiction-specific examination.~~

~~(a) The FE examination may be taken by a college senior or graduate of an engineering program of four years or more accredited by EAC/ABET, of a program that meets the~~

- ~~requirements of the NCEES *Engineering Education Standard*, or of an engineering master's program accredited by EAC/ABET.~~
- ~~(b) The PE examination may be taken by an engineer intern.~~

Rationale

With most jurisdictions allowing automatic approval for the Fundamentals of Engineering (FE) examination, these changes reflect the fact that the exam could be taken by someone who is a junior or below, even if the best chance to pass the examination is during a senior year in college. This change also eliminates some confusion as to when individuals may take the FE examination when they do not hold a degree from an ABET-accredited program but do meet the NCEES *Engineering Education Standard*. To truly decouple education, examination, and experience requirements, the other deletions are necessary, and education requirements are already noted in B.2.a(1).

Model Law Appendix D, Model Language for Member Boards that License Structural Engineers, will also be revised as appropriate by staff if these revisions are adopted.

Board of directors' position

Endorses, consent agenda

UPLG Motion 13

Move that *Model Law* 130.10 C be amended as follows:

130.10 General Requirements for Licensure

C. Surveying

1. Certification or Enrollment as a Surveyor-Surveying Intern

The following shall be considered as minimum evidence that the applicant is qualified for certification ~~or enrollment~~ as a surveyor-surveying intern.

- a. Graduating from a surveying program of four years or more accredited by the Engineering Accreditation Commission of ABET (EAC/ABET), the Engineering Technology Accreditation Commission of ABET (ETAC/ABET), or the Applied and Natural Science Accreditation Commission of ABET (ANSAC/ABET); graduating from a program of four or more years related to surveying with 30 or more semester course hours in core surveying topics; or meeting the requirements of the NCEES *Surveying Education Standard*
- b. ~~Graduating from a program related to surveying of four years or more as approved by the board and with a specific record of two years of progressive experience in surveying~~
- b. Passing the NCEES Fundamentals of Surveying (FS) examination
- c. ~~Graduating from a program of four years or more as approved by the board and with a specific record of four years of progressive experience in surveying~~

~~In addition to satisfying one of the above requirements, the applicant shall pass the NCEES Fundamentals of Surveying (FS) examination.~~

2. Licensure as a Professional Surveyor

- a. Initial Licensure as a Professional Surveyor

~~A surveyor intern with a specific record of four years or more of combined office and progressive field experience satisfactory to the board in surveying under the supervision of a professional surveyor shall be admitted to the NCEES Principles and Practice of Surveying examination and any required state-specific examinations. Upon passing these examinations, the applicant shall be licensed as a professional surveyor, if otherwise qualified.~~

An applicant who presents evidence of meeting the applicable education, examination, and experience requirements as described below shall be eligible for licensure as a professional surveyor.

- (1) Education Requirements

An individual seeking licensure as a professional surveyor shall possess one or more of the following education qualifications (a degree in surveying includes surveying, surveying engineering, mapping, geodesy, and geomatics):

- (a) A degree in surveying of four years or more accredited by the Engineering Accreditation Commission of ABET (EAC/ABET)

- (b) [A degree in surveying of four years or more accredited by the Engineering Technology Accreditation Commission of ABET \(ETAC/ABET\)](#)
- (c) [A degree in surveying of four years or more accredited by the Applied and Natural Science Accreditation Commission of ABET \(ANSAC/ABET\)](#)
- (d) [A degree related to surveying of four years or more with 30 or more semester course hours in core surveying topics](#)
- (e) [A bachelor's, master's, or doctoral degree from a non-accredited program related to surveying. This individual's education must be shown to meet the NCEES *Surveying Education Standard*.](#)

(2) [Examination Requirements](#)

[An individual seeking licensure as a professional surveyor shall take and pass the NCEES Fundamentals of Surveying \(FS\) examination and the NCEES Principles and Practice of Surveying \(PS\) examination, and any jurisdiction-specific examination.](#)

(3) [Experience Requirements](#)

[An individual seeking licensure as a professional surveyor shall present evidence of a specific record of four years of progressive surveying experience after a qualifying degree is conferred as described in 2.a.\(1\) above. This experience should be of a grade and character that indicate to the board that the applicant may be competent to practice surveying. The following educational criteria may apply as a substitute to the length of experience set forth above:](#)

- (a) [An individual with a master's degree in surveying acceptable to the board: three years of experience after the qualifying bachelor's degree is conferred as described in 2.a.\(1\) above](#)
- (b) [An individual with an earned doctoral degree in surveying acceptable to the board and who has passed the FS exam: two years of experience](#)
- (c) [An individual with an earned doctoral degree in surveying acceptable to the board and who has elected not to take the FS exam: four years of experience](#)

[A graduate degree that is used to satisfy education requirements cannot be applied for experience credit toward licensure. To be eligible for experience credit, graduate degrees shall be relevant to the applicant's area of professional practice.](#)

[Experience credit for a graduate degree cannot be earned concurrently with work experience credit.](#)

b. Licensure by Comity for a Professional Surveyor

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure by comity as a professional surveyor:

- (1) An individual holding a certificate of licensure to engage in the practice of surveying issued by a proper authority of any jurisdiction or any foreign country, based on requirements that do not conflict with the provisions of this Act and possessing credentials that are, in the judgment of the board, of a standard not lower than that specified in the applicable licensure act in effect in this jurisdiction at the time such certificate was issued may, upon application be licensed without further examination except as required to examine the applicant's knowledge of statutes, rules, and other requirements unique to this jurisdiction; or
- (2) An individual holding an active Council Record with NCEES, whose qualifications as evidenced by the Council Record meet the requirements of this Act, may, upon application, be licensed without further examination except as required to examine the applicant's knowledge of statutes, rules, and other requirements unique to this jurisdiction.

Rationale

The motion presented by the EPS Committee and passed at the 2022 annual meeting (EPS Motion 1) essentially was to decouple education, examinations, and experience for surveying licensure. UPLG felt that the engineering licensure pathways already contained within the *Model Law* were easy to understand, so it modeled the surveying requirements after the engineering requirements.

Board of directors' position

Endorses, non-consent agenda

UPLG Motion 14

Move that *Model Law* 130.20 be amended as follows:

130.20 Applications and Fees

- A. ~~Application for licensure as a professional engineer and/or professional surveyor or certification as an engineer intern or surveyor intern shall be on a form prescribed and furnished by the board; shall contain a declaration made under penalty of perjury, showing the applicant's education and a detailed summary of technical and engineering experience or surveying experience; and shall include the names and contact information of the references.~~

~~The board may accept the verified information contained in a valid Council Record issued by NCEES for applicants in lieu of the same information that is required on the form prescribed and furnished by the board.~~

All applications, including applications for examination if required, shall be on a form prescribed and furnished by the board, shall include the names and contact information of the references, and shall contain a declaration made under penalty of perjury. The board may accept the verified information provided by NCEES for applicants in lieu of the same information that is required on the form prescribed and furnished by the board.

- B. The application fee shall be established by regulation of the board for licensure as a professional engineer or professional surveyor or for certification as an engineer intern or surveyor intern, and shall accompany the application.
- C. Should the board deny the issuance of a certificate of licensure or intern certification to any applicant, the fee paid shall be retained as an application fee.

Rationale

UPLG feels that the changes clarify what is needed in terms of applications and for acceptance of verified information from NCEES.

Board of directors' position

Endorses, consent agenda

UPLG Motion 15

Move that *Model Law* 150.30 A be amended as follows:

150.30 Grounds for Disciplinary Action—Unlicensed Individuals

- A. In addition to any other provisions of law, the board shall have the power to fine and recover costs from any unlicensed individual who is found guilty of:
1. Engaging in the practice or offer to practice of engineering or surveying in this jurisdiction without being licensed in accordance with the provisions of this Act
 2. Using or employing the words "professional engineer," "engineering," "professional surveyor," "surveying," or any modification or derivative thereof in ~~his or her~~ the individual's name or form of business activity except as ~~licensed~~ provided in this Act
 3. Using or advertising any title or description tending to convey the impression that the individual is a professional engineer or professional surveyor unless the person is duly licensed in this jurisdiction
 - ~~34.~~ Presenting or attempting to use the certificate of licensure or seal of a licensee
 - ~~45.~~ Engaging in any fraud or deceit in obtaining or attempting to obtain a certificate of licensure or intern certification
 - ~~56.~~ Impersonating any licensee
 - ~~67.~~ Using or attempting to use an expired, suspended, revoked, inactive, retired, or nonexistent certificate of license

Rationale

UPLG added the new language to further clarify that any attempt to imply licensure when the individual is not licensed should be grounds for disciplinary action.

Board of directors' position

Endorses, consent agenda

UPLG Motion 16

Move that *Model Law* 160.20 be amended as follows:

160.20 Managing Agent and Resident Professional

A firm shall designate a managing agent ~~and a resident professional. The managing agent and the resident professional may or may not be the same individual.~~

- A. Managing Agent—The following criteria shall apply to the firm’s designation of a managing agent: A firm shall designate a licensee to be a managing agent for the firm. The managing agent is responsible for the engineering or surveying work and projects in ~~this jurisdiction~~ *[this jurisdiction]* offered or provided by the firm. A licensee may not be designated as a managing agent for more than one firm. A licensee who renders occasional, part-time, or consulting engineering or surveying services to, or for, a firm may not be designated as a managing agent, unless the licensee is an officer or owner of the firm. The managing agent’s responsibilities include:
1. Renewal of the firm’s certificate of authorization and notification to the board of any change in managing agent;
 2. Overall administrative supervision of the firm’s licensed and subordinate personnel providing the engineering or surveying work in this jurisdiction; and
 3. Institution and adherence of policies of the firm that are in accordance with the Rules of Professional Conduct.
- B. ~~Resident Professional—The following criteria shall apply to the firm’s designation of a resident professional: A firm shall also designate a resident professional engineer or a resident professional surveyor, as applicable, to be in responsible charge of the practice of engineering or surveying, as applicable, in each branch office in which engineering or surveying services are offered or provided. A resident professional engineer or surveyor shall meet the following criteria:~~
1. ~~Spend a majority of normal business hours at a particular branch office;~~
 2. ~~Be a resident professional engineer or surveyor at only one particular branch office at one time; and~~
 3. ~~Be duly licensed as a professional engineer or a professional surveyor by the licensing board of the jurisdiction in which the branch office is located.~~

Rationale

As the engineering and surveying industries have moved into a remote workforce post-pandemic, the revised language is proposed to meet a more current reflection of practice.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 17

Move that *Model Law* 170.20 be deleted.

170.20 Engineered Products and Systems

~~Licensed engineers shall be in responsible charge of all engineering design of buildings, structures, products, machines, processes, and systems that can affect the health, safety, and welfare of the public.~~

Rationale

This section of the *Model Law* was moved under the “practice of engineering” definition in Section 110.20, making this section redundant.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 18

Move that *Model Rules* 210.30 be amended as follows:

210.30 Offering to Practice Engineering and Surveying

If the engineer or surveyor is licensed in another jurisdiction, the following items are not considered an offer to practice engineering or surveying:

- A. Advertisements published in print or electronic media, if professional services are not offered in jurisdictions where the [engineer or surveyor individual or firm](#) is not licensed
- B. Responses to inquiries regarding requests for proposals, if there is written disclosure that the [engineer/surveyor and individual or firm are is](#) not currently licensed in the jurisdiction and the response is limited to inquiries regarding scope of project and to demonstrate interest
- C. Responses to inquiries from prospective clients, if there is written disclosure that the [engineer/surveyor and individual or firm are is](#) not currently licensed in the jurisdiction and the response is limited to inquiries regarding scope of project and to demonstrate interest
- D. Using the title/designation professional engineer, licensed engineer, P.E., professional surveyor, licensed surveyor, P.S., or other indicia of licensure in correspondence or on business cards from an office in the jurisdiction where licensure is held

Proposals may not be submitted, contracts signed, or work commenced until the [engineer/surveyor and individual or firm becomes](#) licensed or authorized in the jurisdiction where the work is to be performed.

Rationale

Revisions are suggested for clarity and to include firms in point A.

Board of directors' position

Endorses, consent agenda

UPLG Motion 19

Move that *Model Rules* 230.10 be amended as follows:

230.10 Education Requirements Approved by the Board

- A. Engineering Program [defined in Section 130.10 B.1 of the NCEES Model Law](#)
~~The term “an engineering program of four years or more” used in Section 130.10 B.1.a of the NCEES Model Law is interpreted by this board to mean the following:~~
 - ~~1.— A degree from a bachelor’s or master’s engineering program accredited by the Engineering Accreditation Commission of ABET (EAC/ABET) at the time of the awarding of the degree. The board may accept the degree if accreditation is received within *[insert the prescribed time]*.~~
 - ~~2.— A degree from an engineering program not accredited by EAC/ABET but that meets the requirements of the NCEES Engineering Education Standard~~
- B. Surveying Program [defined in Section 130.10 C.1 of the NCEES Model Law](#)
~~The following shall be considered as minimum evidence to the board that the applicant is qualified in terms of education for certification as a surveyor intern:~~
 - ~~1.— Graduation from a surveying program of four years or more accredited by EAC/ABET, the Engineering Technology Accreditation Commission of ABET (ETAC/ABET), or the Applied and Natural Science Accreditation Commission of ABET (ANSAC/ABET) at the time of awarding the degree or from a program that meets the requirements of the NCEES Surveying Education Standard as described in Section 130.10 C.1.a in NCEES Model Law. The board may accept the degree if accreditation is received within *[insert the prescribed time]*.~~
 - ~~2.— Graduation from a program related to surveying of four years or more as described in Section 130.10 C.1.b in NCEES Model Law is interpreted to be a bachelor’s degree including surveying courses, mathematics, and physical science.~~
 - ~~3.— Graduation from a program of four years or more as described in NCEES Model Law 130.10 C.1.c is interpreted to mean a program other than those defined in 1 or 2 above that is accepted by the board.~~

Rationale

This section on education is already covered in the *Model Law*, and therefore its removal from the *Model Rules* is proposed to avoid redundancy.

Board of directors' position

Endorses, consent agenda

UPLG Motion 20

Move that *Model Rules* 230.40 A be amended as follows:

230.40 Examinations

A. Classification of Engineering Examinations

This jurisdiction or its designee will provide the following examinations, ~~prepared and furnished by NCEES, meeting the requirements of this jurisdiction for licensure as a:~~

1. NCEES Fundamentals of Engineering (FE) examination—The examination consists of subject matters in the fundamentals of engineering. ~~Passing this examination qualifies the examinee for certification as an engineer intern, provided the examinee has met all other requirements for certification required by these Rules.~~
2. NCEES Principles and Practice of Engineering (PE) examination—The examination consists of subject matters in applied engineering. ~~Passing this examination qualifies the examinee for licensure as a professional engineer, provided the examinee has met the other requirements for licensure required by these Rules.~~

This jurisdiction may provide the following examinations:

1. Jurisdictional examinations—The examinations may include jurisdiction laws, procedures, and standards for the practice of engineering.

Rationale

The revisions throughout this section of the *Model Rules* are to remove redundant information already contained within the *Model Law* and for clarity. For both the FE and PE, the statements concerning certification and licensure seem out of place considering this section is referring to examinations. The reference to jurisdictional examinations is added for any jurisdictions that require such exams for engineering licensure.

Board of directors' position

Endorses, consent agenda

UPLG Motion 21

Move that *Model Rules* 230.40 B be amended as follows:

230.40 Examinations

B. Eligibility Approval of Applicant for Engineering Examinations

1. NCEES Fundamentals of Engineering (FE) Examination
 - a. ~~Individuals who are in the final year of a program leading to a bachelor's degree in engineering~~ An individual applying to take the FE examination may register with NCEES directly to take the FE examination or, if required, apply to the board for admission to the FE examination.
 - b. ~~To be certified as an engineer intern, an application for certification may be submitted to the board upon passing the FE examination and meeting the education requirements.~~
2. NCEES Principles and Practice of Engineering (PE) Examination
 - a. ~~Applicants for licensure as a professional engineer~~ An individual will be permitted to sit for the PE examination upon satisfactorily fulfilling all ~~application~~ requirements of the jurisdiction.
 - b. ~~No applicant may sit for the PE examination until the board has established that the applicant is eligible for the examination.~~
 - c. Engineering doctorate degree applicants with an undergraduate degree from a program accredited by the Engineering Accreditation Commission of ABET (EAC/ABET) and with a doctorate degree in engineering from an institution that offers EAC/ABET-accredited undergraduate programs in the doctorate degree field of engineering and with experience that meets the qualifications defined by the board may sit for the PE examination without having taken or passed the FE examination.

Rationale

The revisions throughout this section of the *Model Rules* are to remove redundant information already contained within the *Model Law* and for clarity. UPLG revised this section, noting that the term “eligibility” seemed incorrect and replacing it with “approval.” The other revisions coincide with decoupling examinations, education, and experience in *Model Law*.

Board of directors' position

Endorses, consent agenda

UPLG Motion 22

Move that *Model Rules* 230.40 C be amended as follows:

230.40 Examinations

C. Classification of Surveying Examinations

This jurisdiction or its designee will provide the following examinations, ~~prepared and furnished by NCEES, meeting the requirements of this jurisdiction for licensure:~~

1. NCEES Fundamentals of Surveying (FS) examination—The examination consists of subject matters in the fundamentals of surveying. ~~Passing this examination qualifies the examinee for certification as a surveyor intern, provided the examinee has met all other requirements for certification required by this Act.~~
2. NCEES Principles and Practice of Surveying (PS) examination—The examination consists of subject matters in applied surveying, which may be divided in separate parts as determined by the board. ~~Passing these parts qualifies the examinee for licensure as a professional surveyor, provided the examinee has met the other requirements for licensure required by this Act.~~

This jurisdiction may provide the following examinations:

1. Jurisdictional examinations—The examinations may include jurisdiction laws, procedures, and standards for the practice of surveying.

~~Jurisdictions have the right to administer separate modules on jurisdiction laws and procedures for the practice of surveying.~~

Rationale

The revisions throughout this section of the *Model Rules* are to remove redundant information already contained within the *Model Law* and for clarity. For both the FS and PS, the statements concerning certification and licensure seem out of place considering this section is referring to examinations.

Board of directors' position

Endorses, consent agenda

UPLG Motion 23

Move that *Model Rules* 230.40 D be amended as follows:

230.40 Examinations

D. Eligibility Approval of Applicant for Surveying Examinations

1. NCEES Fundamentals of Surveying (FS) Examination
 - a. ~~Individuals who are in the final year of a program leading to a bachelor's degree in a surveying or surveying-related program. An individual applying to take the FS examination~~ may register with NCEES directly to take the FS examination or, if required, apply to the board for admission to the FS examination.
 - b. ~~To be certified as a surveyor intern, an application for certification may be submitted to the board upon passing the FS examination and meeting the education and experience requirement.~~
2. NCEES Principles and Practice of Surveying (PS) Examination
 - a. ~~An applicant for licensure as a professional surveyor will not be permitted to sit for the PS examination until the FS examination has been passed. An individual will be permitted to take the PS examination upon satisfactorily fulfilling all requirements of the jurisdiction.~~
 - b. ~~No applicant may sit for the PS examination until the board has established that the applicant is eligible for the examination.~~
 - b. Surveying doctorate degree applicants with an undergraduate degree from a program accredited by the Engineering Accreditation Commission of ABET (EAC/ABET), the Engineering Technology Accreditation Commission of ABET (ETAC/ABET), or the Applied and Natural Science Accreditation Commission of ABET (ANSAC/ABET) and with a doctorate degree in surveying and with experience that meets the qualifications defined by the board may sit for the PS examination without having taken or passed the FS examination.

Rationale

The revisions throughout this section of the *Model Rules* are to remove redundant information already contained within the *Model Law* and for clarity. UPLG revised this section, noting that the term “eligibility” seemed incorrect and replacing it with “approval.” The other revisions coincide with decoupling examinations, education, and experience in the *Model Law* and also add a pathway that would exempt someone with a doctorate in surveying from taking the FS examination (similar to what is in the *Model Rules* for engineering).

Board of directors’ position

Endorses, consent agenda

UPLG Motion 24

Move that *Model Rules* 230.40 E and K–M be amended as follows:

230.40 Examinations

E. Examination Dates and Locations

1. ~~NCEES E~~examinations are offered on dates set by NCEES.
2. Locations at which the examinations are given are designated by the board or by NCEES.

K. Examination Results

1. ~~NCEES E~~examination results will be released in accordance with established NCEES policy.
2. Jurisdictional examination results will be released in accordance with established board policy.

L. Review of Examinations

There shall be no post-administration access to, or review of, NCEES examination questions. Member boards may request that NCEES manually verify an examinee’s results from a pencil-and-paper examination. Such verification shall be conducted in accordance with NCEES policy.

M. Examination for Record Purposes

1. Any ~~professional engineer individual~~ licensed by this board may take for Record purposes the FE/~~FS~~ examination and/or a PE/~~PS~~ examination in a chosen discipline offered by NCEES upon payment of *[insert fee set by board regulation and/or NCEES]*.
2. Failure to pass either or both examinations will in no way affect current licensure.

Rationale

The revisions throughout this section of the *Model Rules* are to remove redundant information already contained within the *Model Law* and for clarity. The paragraph within Section 230.40 concerning pencil-and-paper examinations (I) should be removed when the last pencil-and-paper examination is administered, presumably October 2023.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 25

Move that *Model Rules* 230.60 E be amended as follows:

230.60 Applications

E. Licensure by Comity

1. The board is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria to be licensed as a professional engineer or professional surveyor as defined in Section 130.10 of the *Model Law*.
2. The board administrator is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of a Model Law Engineer or Model Law Surveyor ~~as set forth in the designated by~~ NCEES ~~Manual of Policy and Positions Statements~~. If the applicant meets or exceeds these requirements, the board administrator may issue a contingent license authorizing that individual to offer or provide engineering or surveying services in this jurisdiction. A list of all engineers issued contingent licenses will be placed on the agenda of the next meeting of the board for formal approval by the board. A list of all surveyors who have been issued contingent licenses and who have passed the appropriate jurisdiction-specific examination will be placed on the agenda of the next meeting for formal approval by the board.

Rationale

Revisions are made for clarity.

Board of directors' position

Endorses, consent agenda

UPLG Motion 26

Move that *Model Rules 240.20* be amended as follows:

240.20 Seal on Documents

- A. The seal and signature of the licensee and the date of signing shall be placed on all final engineering specifications, reports, drawings, plans, design information, and calculations or final surveys, reports, plats, drawings, plans, and calculations whenever presented to a client or any public agency to certify that the work thereon was done by the licensee or under the responsible charge of the licensee. Working drawings or preliminary documents are not required to have a seal and signature if the working drawing or preliminary document contains a statement in large bold letters to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES, OR IMPLEMENTATION."
- B. The seal and signature shall be placed on all ~~original copy copies~~, tracings, or other reproducible documents listed in 240.20 A so that the seal and signature will be reproduced when copies are made.
- C. When the document contains more than one sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two or more licensees may affix their signatures and seals provided that a note under the seal designates the specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet.
- D. The seal and signature shall be placed on work only when it was under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's areas of competence.
- E. ~~Plans, plats, specifications, drawings, reports, and other documents will be deemed to have been prepared under the responsible charge of a licensee only when all the following conditions have been met and documented:~~
- ~~1. The client requesting preparation of such plans, plats, specifications, drawings, reports, or other documents makes the request directly to the licensee, or a member or employee of the licensee's firm;~~
 - ~~2. The licensee supervises the preparation of the plans, plats, specifications, drawings, reports, or other documents and has input into their preparation prior to their completion;~~
 - ~~3. The licensee reviews the final plans, plats, specifications, drawings, reports, or other documents; and~~
 - ~~4. The licensee has the authority to, and does, make any necessary and appropriate changes to the final plans, plats, specifications, drawings, reports, or other documents.~~
- E. In order to exercise full professional knowledge of and control over work, a licensee in responsible charge of engineering or surveying work must:
1. Have and exercise the authority to review and to change, reject, or approve both the work in progress and the final work product, through examination, evaluation, communication, and direction throughout the development of the work;
 2. Be personally aware of the project's scope, needs, parameters, limitations, and special requirements;
 3. Be capable of answering questions relevant to the engineering or surveying decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
 4. Accept full responsibility for the work.

The board has final authority regarding the determination of whether work was actually prepared under the responsible charge of a licensee. The licensee is responsible for meeting all of the preceding requirements whether the work is being performed remotely or locally.

Rationale

The committee analyzed the existing language and concluded that it did not address some important aspects of demonstrating responsible charge of work, so the committee drafted alternate language. It was noted that the

current paragraph E was process related, instead of making sure that the person who seals the deliverable was in responsible charge.

Board of directors' position

Endorses, non-consent agenda

UPLG Motion 27

Move that *Model Rules* 240.30 H be amended as follows and that the following paragraph H be added to *Model Rules* 240.40:

240.30 Continuing Professional Competency

H. Reinstatement

A licensee ~~may bring applying to reinstate~~ a retired or inactive license ~~to active status by should~~ obtaining all delinquent PDHs. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required. If the applicant is required to retake and pass an NCEES Principles and Practice examination by the board, PDHs may not be required.

240.40 Expirations, Renewals, and Reinstatement to Active Practice

H. If the applicant for reinstatement has not been engaged in the legal practice of engineering or surveying for more than five years prior to seeking reinstatement, the licensing board may require the applicant to take and pass the NCEES Principles and Practice of Engineering (PE) examination or the NCEES Principles and Practice of Surveying (PS) examination and jurisdiction-specific examinations prior to reinstatement.

Rationale

These revisions come from a Committee on Education motion (Motion 9) that passed as amended at the 2022 annual meeting. The motion as amended was to charge UPLG with incorporating the following amendments:

240.30 Continuing Professional Competency

H. Reinstatement

A licensee ~~may bring applying to reinstate~~ a retired or inactive license ~~to active status by should~~ obtaining all delinquent PDHs. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required. If the applicant has not been engaged in the legal practice of their profession for more than five years prior to seeking reinstatement, the licensing board may require the applicant to take and pass the NCEES Principles and Practice of Engineering (PE) examination or the NCEES Principles and Practice of Surveying (PS) examination and jurisdiction-specific examinations prior to reinstatement.

During the review of this section and considering the motion that was passed, UPLG felt that sections 230.30 and 230.40 both needed to be revised. *Model Rules* 240.30 H is a revision, while 240.40 H is new section.

Board of directors' position

Endorses, consent agenda

Engineering Licensure Model Task Force (1 motion)

ELMTF Motion 1

Move that a Special Committee on Bylaws be charged with developing a new standing Committee on Licensure and proposing amendments as needed to *Bylaws* Section 7 to establish the committee.

Financial impact

The task force estimates that the cost of a new committee will be commensurate with the cost of the current task force and other standing committees, which is approximately \$20,000 annually.

Rationale

During the past three years, the Engineering Licensure Model Task Force reviewed many licensure systems and potential changes to the current licensing model. During this work, it has become obvious to the task force that the component requirements for licensure are interconnected and must be considered together when developing and evaluating a future licensure framework. Further, the practice of engineering is becoming increasingly dynamic, and the need for changes to licensure requirements in the future is likely. To that end, the task force

has concluded that NCEES would best be served by establishing a new standing committee: the Committee on Licensure.

Licensure is an interconnected endeavor, and it is important for all the components be considered holistically. A standing licensure committee would be a valuable addition to NCEES and would help to ensure that the licensure process is consistent and comprehensive.

Board of directors' position

Endorses, consent agenda

Board of Directors (2 motions)

Board of Directors Motion 1

Move that the application of the Structural Engineering Licensure Coalition to become a member of the NCEES Participating Organizations Liaison Council be approved.

Financial impact

Less than \$1,000 per year for annual meeting registration (POLC members pay own travel expenses, and POLC dues currently set at \$0)

Rationale

The Structural Engineering Licensure Coalition meets the requirements for admittance to POLC: (from *Bylaws*, Section 3.04) “A Participating Organization shall be a society, institute, association, or organization of national scope whose membership is composed predominantly of engineers and/or surveyors engaged in work at the professional level and whose policies include advancement of professional ethics and standards and encouragement of licensure, and which actively supports the policies and objectives of the Council.”

Board of directors' position

Endorses, non-consent agenda

Board of Directors Motion 2

Move that NCEES staff be directed to prepare amended language to remove references to pencil-and-paper examinations in all NCEES documents after completion of the last pencil-and-paper examination, to present such amended language to the NCEES board of directors for approval, and to add additional language to clarify any references to pencil-and-paper examinations that staff cannot change.

Rationale


Since references to pencil-and-paper examinations are in numerous NCEES documents, the board feels that NCEES staff should search all documents and the website and then report back to the board instead of charging individual committees to review the various documents separately. The one exception is the *Bylaws*—any references to pencil-and-paper examinations in the *Bylaws* would go through the appropriate committee for recommended revisions.


Board of directors' position

Endorses, non-consent agenda

QUARTERLY OUTREACH REPORT (Q4)

SOCIAL MEDIA: April- June 2023

 TOP FACEBOOK POSTS	DATE	VIEWS
Geology Applicants: 100-day Reminder	6/14	409
Meeting Materials June 8-9	6/02	252
GIT & PG Applications Now in Connect	4/18	235
PECG "Thank You for Hosting Us"	5/22	201
Notice: Outage RE: Mailing of Reminders	6/26	180

 TOP TWEETS	DATE	VIEWS
PECG "Thank You for Hosting Us"	3/10	338
Recruiting Civils for Exam Development	5/10	168
Delay in Mailing Renewal Reminder Postcards	6/16	132
UC Riverside "Thank You for Hosting"	6/9	114
New Civil Exam Specs Announced	5/19	105

WEB PAGE VIEWS	VIEWS
License lookup	409,732
Board Home Page	193,571
Applicants Information	105,968
License Renewal Information	100,646
PE Application	83,229

QUARTERLY OUTREACH REPORT (Q4)

OUTREACH EVENTS: APRIL- JUNE 2023

EVENTS: (All “In Person” unless noted “Virtual”)

April
April 4 - CSU, San Bernardino Presentation – J. Goodwin, PG, CEG
April 4 - Loma Linda University Presentation – J. Goodwin, PG, CEG
April 5 - UC San Diego, Scripps Institute of Oceanography Presentation – J. Goodwin, PG, CEG
April 6 - CSU, Long Beach Presentation – J. Goodwin, PG, CEG
April 26 - North County Civil Engineer's and Land Surveyors Association (NCCELSA) Presentation - N. King, P.E.
April 28 – Terracon PE Review: California Specific PE Requirements Presentation (Virtual) - N. King, P.E.
April 29 - Univ. of Pacific Presentation (Virtual) - J. Goodwin, PG, CEG
May
May 15 – UC Riverside – Presentation to Mechanical Senior Design - M. Donelson, P.E.
May 17 - Professional Engineers in California Government (PECG) Golden Gate Section Presentation (Virtual) N. King, P.E. and M. Donelson, P.E.
May 17 – ASCE/CLSA Joint Mtg. in Bakersfield – Introduction to License Renewals and Applications in Connect. R. Moore, P.L.S.
May 25 - Caltrans District 8 Professional Engineer Quantifications Committee: Professional Engineering Licensure (Virtual), Natalie King, P.E.
May 25 - Monument Preservation with San Diego Gas & Electric (Virtual) Dallas Sweeney, P.L.S.
June
June 6 - Anatomy of Licensing: Navigating the PE Licensing Process w/ ASCE LA YMF and San Diego Chi Epsilon Alumni Association Natalie King, P.E.
June 12 - PLS Act discussion with City of Carlsbad (Virtual) Dallas Sweeney, P.L.S.
June 15 – Camp Pendleton Day participation /booth M. Donelson, P.E.
June 15 – CLSA Channel Islands Chapter in Ventura – Introduction to License Renewals and Applications in Connect. R. Moore, P.L.S.
June 20 & June 27 – California Licensing for Professional Civil Engineers and Professional Land Surveyors w/ San Francisco City Employees (Virtual) Natalie King, P.E., and Dallas Sweeney, P.L.S.
June 29 - BKF Engineers, Early Professionals Event: Professional Licenses Lunch & Learn (Virtual) D. Sweeney, P.L.S. and N. King, P.E.

XI. President's Report/Board Member Activities

XII. Approval of Meeting Minutes (Possible Action)

A. Approval of June 8, 2023, Board Meeting Minutes

DRAFT

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

Thursday, June 8, 2023, beginning at 9:00 a.m.

Thursday, June 8, 2023

Board Members Present:	President Rossana D’Antonio; Vice-President Michael Hartley; Fel Amistad; Alireza Asgari; Kathy Jones Irish; Coby King; Guillermo Martinez; Betsy Mathieson; Mohammad Qureshi; Frank Ruffino; Wilfredo Sanchez; and Christina Wong
Board Members Absent:	
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Dawn Hall (Administrative Manager); Celina Calderone (Board Liaison); Dallas Sweeney (Senior Registrar Land Surveyor); Joshua Goodwin (Senior Registrar Geologist); Christopher Pirrone (Legal Counsel)

I. Roll Call to Establish a Quorum

President D’Antonio called the meeting to order at 9:02 a.m., and a quorum was established.

II. Pledge of Allegiance

Dr. Qureshi led everyone in the recitation of the Pledge of Allegiance.

III. Public Comment for Items Not on the Agenda

During Public Comment, Carl Josephson, representing SEAOC, introduced Krista Looza, the current SEAOC president who currently serves on the licensing committee. Ms. Looza announced that SEAOC is very excited and passionate about licensure and is here to engage, participate, and support in discussions regarding licensure. She added that SEAOC is interested in supporting the Board in the pursuit of mandatory continuing education and explained that SEAOC has members on both sides of the issue who are passionate about the topic.

President D’Antonio announced the reappointment of Board Member Wilfredo Sanchez and welcomed newly appointed Board member Guillermo Martinez.

IV. Legislation

A. 2023 Legislative Calendar

Ms. Eissler reviewed the 2023 Legislative calendar. In June, they will be busy with the budget as it needs to be passed by June 15, and the summer recess will begin on July 14.

B. Discussion of Legislation for 2023

1. Assembly Bill (AB) 883 - Business licenses: United States Department of Defense SkillBridge program.

MOTION:	Dr. Qureshi and Ms. Wong moved to take a position of "Watch" on AB 883, as amended May 18, 2023.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D'Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

2. Senate Bill (SB) 372 - Department of Consumer Affairs: licensee and registrant records: name and gender changes.

MOTION:	Dr. Qureshi and Dr. Amistad moved to take a position of "Watch" on SB 372, as amended April 20, 2023.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D'Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

3. SB 544 - Bagley-Keene Open Meeting Act: teleconferencing.

During Public Comment, Alan Escarda representing PECG said he appreciates the support of this bill which allows the public to access the Board meetings remotely.

MOTION:	Mr. Sanchez and Ms. Mathieson moved take a position of “Support” on SB 544, as amended April 27, 2023.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D’Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

4. SB 802 - Licensing boards: disqualification from licensure: criminal conviction.
No action needed at this time.
5. SB 818 - Department of Consumer Affairs: terms of office: fingerprinting.
No action needed at this time.

Ms. Eissler was recently made aware of SB 447 after the agenda was noticed; as such, the Board cannot discuss it at this meeting. However, she did want to bring it to the Board’s attention. It relates to the Governor’s Office of Business and Economic Development which is referred to as GO-Biz. It would establish media campaigns on a national scale or targets in other states regarding how to avoid discrimination based on sexual orientation, gender identity, gender expression. Furthermore, importantly for the Board’s operations, it would repeal the section of the law that bans travel to certain states. This bill will be on the July agenda.

III. Public Comment for Items Not on the Agenda (Cont.)

During Public Comment, an individual by the name of Steven Potter said that he had submitted his application for review and was wondering about the timeframe to review an application. Mr. Moore reported that currently, the timeframe to have applications reviewed is currently around the 3–4 month range due to the volume. The volume is starting to slightly decline and the incoming applications are starting

to level off.

V. Administration

A. Fiscal Year 2022/23 Budget Report

Ms. Hall reported on the revenue. At the end of May, the Board was at 98% of projected total year revenue. The renewal revenue is largely deferred to the next Fiscal Year and is expected to meet the revenue target.

Mr. King noted that the Board is currently in a down year in terms of revenue and confirmed that the Board currently has a \$480,000 deficit for the year. He inquired whether the Board will have a significant surplus that will make up for the deficit. Ms. Hall is carefully monitoring expenses and revenue. She added that it has been very difficult over the last few years as the Board has experienced a number of changes with the online portal that has greatly affected the behavior of license renewals. In addition, there was a significant variation in the volume of applications during the pandemic; she remains hopeful in anticipating an uptick that should help level out the fund condition and match the deficit for next year.

VI. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2022/23 Update

Ms. Criswell presented and reviewed the Enforcement statistics. Mr. King noted that open and pending investigations are elevated. Ms. Criswell noted that the ability to submit a complaint is more accessible than ever given the new Connect system.

During Public Comment, Carl Josephson inquired whether the Enforcement unit is actively seeking Subject Matter Experts. He is aware of SEAOC requesting licensees to volunteer. Ms. Criswell encourages independent consultant participation in all areas of practice, especially in land surveying, electrical engineering, mechanical engineering, and all geology professions.

VII. Exams/Licensing

A. Examination/Licensing Updates

Mr. Moore reported there are no updates at this time but there may be an update at the July meeting.

VIII. Strategic Plan Discussion

A. Objective 1.3 Continuing Education Committee Report

Mr. Moore reported that staff is currently working on questionnaires to distribute to other licensing boards and bureaus across the nation and within DCA to have the committee to review.

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

Mr. Moore recalled that at the April 2023 Board meeting, there was a discussion regarding expectations for objectives 5.5 and 5.6 and the Board requested to revisit and possibly revise the language of these objectives.

Mr. King raised the issue that he raised last time in that there seems to be a disconnect between the Board's outreach which tends to be to four-year colleges, while underserved students especially freshmen and sophomores tend to have fewer students that come from those underserved communities that perhaps we want to spend more time targeting this demographic. It appears that many of those students who may be interested in the professions that the Board regulates, in order to design their curriculum, we need to reach them when they are attending what they often attend which is community college. He does not believe we do a good job of outreach to community colleges and wondered whether we want to include it in the Strategic Plan, by calling out community colleges specifically, or just be clearer that we will do outreach where students from underserved communities are attending. If the goal of the Board is to increase diversity in the regulated professions, we need to go to where the students are and they tend to be at the community colleges.

Ms. Mathieson recalled that at the April meeting, this discussion started with a request from staff on how to measure achievements and discussed whether "underserved populations" meant potential licensees or potential users of services provided by licensees. We need to clarify wording in that regard. Underserved populations of potential licensees or consumers and she believes there was a good selection of suggestions in how to reach potential licensees. If we still need to provide a method to measure success, that should be included in the discussion today.

Ms. Wong indicated that the Board needs to understand who our licensees are and possibly review data and identify the gaps.

Dr. Qureshi recommended focusing on the wording of this objective. We are going to ensure accessibility of information. From a measurement standpoint, he does not know how that would be measured. For the Strategic Plan objective, we can build in parts of this discussion by enhancing what we mean by underserved populations.

Mr. Sanchez suggested thinking about the Board's long-term intention, increasing diversity in the population of professionals that the Board regulates. He prefers the word underrepresented over underserved as there are metrics that exist at the state level that defines what that term means. The objective is outreach to more communities where they are underrepresented with the hopes that by reaching out to them, that over time we will see an improvement in the numbers.

Mr. King agrees that ensured accessibility on licensure is narrow and there is no obstacle to changing the language. He believes it is important for a variety of

reasons to extend our scope in how these things can be properly measured.

Ms. Wong suggests changing the word from ensure to expand.

Dr. Qureshi suggested to change the objective to read, “disseminate information on licensure to the public to improve inclusion of the underrepresented population.” Mr. Moore explained that the Board currently provides outreach to community colleges. We are identifying community colleges that have engineering, surveying, and geology programs and are planning to extend communication about licensure to include them in addition to the bachelor programs. The feedback received from those who conduct the outreach is that the individuals in the bachelor programs are starting to focus on licensure versus those conducted at the community college level. It is still worthwhile, especially in community colleges where there is a transfer program.

Mr. Sanchez recommended coming back to the next meeting with language to consider. Ms. Irish recommended establishing a working group consisting of two members to come up with language. President D’Antonio recommended that Mr. Sanchez and Ms. Wong work together on coming up with language to present at the next Board meeting.

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

Vice-President Hartley believes the objective could be reworded. Ms. Eissler reported on the concerns regarding different phrasing and recalled that legal counsel cautioned when referring to complainants’ rights, it can become problematic. Also, one of the things that came up during the Strategic Planning discussion was that some of the boards require their licensees to provide affirmative notice on how their clients can file a complaint. President D’Antonio recommended combining both objectives (5.5 and 5.6) together for the working group to address.

During Public Comment, Alan Escarda, representing PECG, mentioned that while reading the Board Bulletin regarding the various complaint issues and processes, there were many terms he was unfamiliar with. He recommends a flow chart. As for outreach in underrepresented areas, he worked on projects where a communication plan was developed that identifies the stakeholders, how to communicate, methods, and frequency. Once established, it is easily updated. Encourages staff to do a formal communication plan to aid in outreach to underrepresented communities.

IX. Executive Officer's Report

- A. Rulemaking Status Report

Ms. Eissler reported on the various rulemaking packages. Regarding the

examination fees for the ASBOG exam, applicants now pay them directly to ASBOG. The rulemaking package was submitted to the Office of Administrative Law for final review on May 17, 2023. They have 30 working days to complete review, which will be at the end of June 2023. They may provide feedback to report whether it has been approved or they may ask for additional information prior to the deadline. Mr. King congratulated Ms. Eissler for accomplishing the task.

B. Update on Board's Business Modernization Project

Mr. Moore reported that as planned, the Geologist-in-Training (GIT) and the Professional Geologist (PG) applications are now online in Connect, and the team is currently working on the structural, geotechnical, and traffic engineering applications.

C. Personnel

Mr. Moore noted that there continue to be three vacancies with board staff that will not be filled for the remainder of the Fiscal Year as we are still evaluating operational needs in the future. Existing staff member Francesca LaFleur has accepted a position in the Enforcement Unit.

D. ABET

If Mr. Moore receives communication from ABET, he will present it at the next meeting.

E. Association of State Boards of Geology (ASBOG)

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

Mr. Moore reported that the ASBOG Annual Meeting is scheduled in October 2023 in Spokane, Washington, and staff is currently working on the Out-of-State travel request.

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

1. 2023 NCEES All Zone Meeting, April 27-29, 2023 – Report

Dr. Qureshi reported that there was a large group of attendees largely dominated by the Southern Zone. All the committees that had motions made presentations. The State of the Council report took place June 7, 2023, where the proposed motions were reviewed. A draft document of those motions is available on the NCEES website and the final version will be available next month. Mr. Moore will bring those motions to the next meeting. The most discussed and debated topic is how the Professional Surveyors exam will be developed and administered. This was the first time that all four Zones assembled together in one combined meeting.

Andrew Zoutewelle was nominated by Southern Zone for NCEES president elect. He is currently the Southern Zone Vice-President. Dave Peden from Washington was elected by Western Zone as Secretary-Treasurer.

In addition, the Southern Zone and Northeast Zone elected both Vice-

President and Assistant Vice-President. The Central Zone elected a Secretary-Treasurer.

2. 2023 NCEES Annual Meeting, August 15-18, 2023, Boston, MA – Update
Mr. Moore reported on the state of the council virtual sessions by NCEES where they briefly reviewed motions to be discussed at the Annual meeting. Some motions were not yet complete but will be in the packet that will be distributed by the end of June. Any motions that the Board should discuss will be included in the July agenda.

G. Update on Outreach Efforts

Mr. Moore presented the Outreach report. Ms. Mathieson inquired about the recruitment of Subject Matter Experts and whether it will be noticed on any of the social media platforms. Mr. Moore reported that anything that would be posted to the Board's homepage would be shared to the Board's social media accounts as well. Ms. Jones Irish suggested recontacting Los Angeles Department of Water and Power because many of the employees belong to professional associations that have community contacts with underrepresented people and may be a resource for outreach efforts.

X. President's Report/Board Member Activities

President D'Antonio took a moment to honor Board members Kathy Jones Irish and Dr. Mohammad Qureshi and noted that they have fulfilled their terms. She expressed her appreciation for their support, guidance, and mentorship.

Ms. Irish thanked Governor Jerry Brown and Governor Gavin Newsom for allowing her to continue to serve, noting it has been a pleasure and is grateful for her fellow Board members and their dedication. It has been a delight, and she is grateful for this opportunity.

Dr. Qureshi expressed what an honor and a privilege it has been to serve on the Board, and it is with a degree of sadness that he is leaving at the end of his term. Hopefully, in his role with NCEES, he will be able to see everyone now and then.

Dr. Asgari reported that the Structural exam was graded and due to the exam going CBT (Computer Based Testing) next year, there was a large population of candidates who were taking it. There is one more paper and pencil examination this year before the CBT conversion.

Mr. King explained that collectively, he, Ms. Irish, and Dr. Qureshi, have been on the Board for a long time. There has been a lot of back and forth between him and Dr. Qureshi over the years but he has always maintained a respect for his perspective and he has added so much to the Board and congratulates him on his current position with NCEES. He also knew Ms. Irish before he was appointed to the Board. When he was appointed to the Board, he expressed his delight and relief to see her on the roster. She is a great act to follow and has enjoyed working with her.

Ms. Wong reflected joining the Board during the pandemic so she had not experienced the privilege of getting together. The culture of inclusion by the Board is amazing.

Mr. Moore presented both Dr. Qureshi and Ms. Irish with Proclamations recognizing their efforts and milestones that took place during their appointments.

Mr. Moore presented President D’Antonio with a gavel plaque recognizing her time as Board President.

XI. Nomination and Election of President and Vice President for Fiscal Year 2023/24

MOTION:	Dr. Qureshi and Dr. Amistad moved to close nominations.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D’Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

MOTION:	Mr. King and Mr. Amistad moved to elect Mike Hartley as Board President and Christina Wong as Vice-President for Fiscal Year 2023/24.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D’Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				

Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

XII. Approval of Meeting Minutes

A. Approval of April 13, 2023, Board Meeting Minutes

MOTION:	Dr. Qureshi and Ms. Wong moved to approve the April meeting minutes.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President D’Antonio	X				
Vice-President Hartley	X				
Fel Amistad	X				
Alireza Asgari	X				
Kathy Jones Irish	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Wilfredo Sanchez	X				
Christina Wong	X				

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

- A. Deliberate on a Decision(s) to be Reached in a Proceeding(s) Required to be Conducted Pursuant to Chapter 5 (commencing with Section 11500), as Authorized by Government Code Section 11126(c)(3)
- B. Confer with, or Receive Advice from, Its Legal Counsel Regarding Pending Litigation Pursuant to Government Code Section 11126(e)(1) and (2)(A), on the following matters:
 1. Matt Aston, Freddy Espinal, Jesse Moorhouse, Ground Penetrating Radar Systems, LLC v. Board for Professional Engineers, Land Surveyors, and Geologists, Sacramento Superior Court Case No. 34-2020-80003553
 2. Patrick Frederick Christensen vs. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs of the State of California, San Diego County Superior Court Case No. 37-2022-00000484-CU-WM-CTL
 3. 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
 4. Roy Allen Olsen, et al. v. California Board of Professional Engineers, Land Surveyors and Geologists, et al., Sacramento County Superior Court. Case

No. 34-2022-00328379

Ms. Criswell reported that in Closed Session, the Board took action on two stipulations, two default decisions, and two proposed decisions, and discussed litigation as noticed.

XIV. Adjourn

The meeting was adjourned at 2:38 p.m.

PUBLIC PRESENT

Krista Looza, SEAOC

Carl Josephson, SEAOC

Rob McMillan

Alan Escarda, PECG

XIII. Closed Session – The Board will meet in Closed Session to discuss, as needed:

- A. Deliberate on a Decision(s) to be Reached in a Proceeding(s) Required to be Conducted Pursuant to Chapter 5 (commencing with Section 11500), as Authorized by Government Code Section 11126(c)(3)
- B. Confer with, or Receive Advice from, Its Legal Counsel Regarding Pending Litigation Pursuant to Government Code Section 11126(e)(1) and (2)(A), on the following matters:
 1. Matt Aston, Freddy Espinal, Jesse Moorhouse, Ground Penetrating Radar Systems, LLC v. Board for Professional Engineers, Land Surveyors, and Geologists, Sacramento Superior Court Case No. 34-2020-80003553
 2. Patrick Frederick Christensen vs. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs of the State of California, San Diego County Superior Court Case No. 37-2022-00000484-CU-WM-CTL
 3. 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
 4. Roy Allen Olsen, et al. v. California Board of Professional Engineers, Land Surveyors and Geologists, et al., Sacramento County Superior Court. Case No. 34-2022-00328379

XIV. Adjourn
