



Board Members

Sylvia Kwan, President
Tian Feng, Vice President
Nilza Serrano, Secretary
Denise Campos
Pasqual V. Gutierrez
Ebony Lewis
Robert C. Pearman, Jr.

AMENDED NOTICE OF MEETING

California Architects Board

September 11, 2019

**Diablo Valley College
Community Conference Center
321 Golf Club Road
Pleasant Hill, CA 94523
(916) 574-7220 (Board office)
(925) 685-1230 (Meeting location)**

The California Architects Board (Board) will hold its quarterly meeting as noted above.

AGENDA

10:30 a.m. to 5 p.m.
(or until completion of business)

Action may be taken on any item listed below on the agenda.

- A. Call to Order / Roll Call / Establishment of a Quorum
- B. President's Procedural Remarks and Board Member Introductory Comments
- C. Update on the Department of Consumer Affairs (DCA)
- D. Public Comment on Items Not on the Agenda

The Board may not discuss or act on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).

- E. Presentation of Octavius Morgan Distinguished Service Award to Barry N. Williams
- F. Presentation on Diablo Valley College – Daniel Abbott, Architecture, Design and Technology Program
- G. Presentation on Significant Changes in the 2019 State Building Code – Sharon Goei, President, California Building Officials and Director of Housing, City of Milpitas

- H. Presentation on Rebuilding Efforts in the City of Paradise and Sonoma County – Mike Renner, 4Leaf, Inc.
- I. Review and Possible Action on June 12, 2019 Board Meeting Minutes
- J. Executive Officer’s Report – Update on Board’s Administration / Management, Examination, Licensing, and Enforcement Programs
- K. Update and Possible Action on Legislation Regarding:
 - 1. Assembly Bill (AB) 476 (B. Rubio, 2019) Department of Consumer Affairs: Task Force: Foreign-Trained Professionals
 - 2. AB 613 (Low, 2019) Professions and Vocations: Regulatory Fees
 - 3. AB 626 (Quirk-Silva, 2019) Conflicts of Interest
 - 4. Senate Bill (SB) 53 (Wilk, 2019) Open Meetings
 - 5. SB 601 (Morrell, 2019) State Agencies: Licenses: Fee Waiver
 - 6. SB 608 (Glazer, 2019) Architects and Landscape Architects
- L. Discuss and Possible Action on Architect Registration Examination (ARE) Performance
- M. Discuss and Possible Action on Retired License Status and Fee
- N. Regulatory and Enforcement Committee (REC)
 - 1. Update on August 1, 2019 REC Meeting
 - 2. Review and Possible Action on Update to *Building Official Information Guide*
 - 3. Review and Possible Action on 2019-2021 Strategic Plan Objectives to:
 - a. Educate Architects Regarding Their Responsibilities Under Business and Professions Code (BPC) Section 5535.1 (Responsible Control) and California Code of Regulations (CCR) Section 151 (Aiding and Abetting) to Protect Consumers from Unlicensed Practice
 - b. Collaborate with Websites to Restrict Advertisements from Unlicensed Entities
- O. Review of Future Board Meeting Dates
- P. Closed Session – Pursuant to Government Code (GC) Sections 11126(a)(1), (c)(3), and (f)(4), and 11126.1, the Board Will Meet in Closed Session to:
 - 1. Review and Possible Action on February 27, 2019 Closed Session Minutes
 - 2. Deliberate and Vote on Disciplinary Matters
 - 3. Perform Annual Evaluation of its Executive Officer
 - 4. Adjourn Closed Session
- Q. Reconvene Open Session
- R. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast the meeting on its website at www.cab.ca.gov. Webcast availability cannot be guaranteed due to limitations on resources or technical difficulties. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to it taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at their discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting:

Person: Gabe Nessar

Telephone: (916) 575-7202

Email: gabriel.nessar@dca.ca.gov

Telecommunications Relay Service: Dial 711

Mailing Address:

California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code section 5510.15).

AGENDA ITEM A: CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

Roll is called by the Board Secretary or, in his/her absence, by the Board Vice President or, in his/her absence, by a Board member designated by the Board President.

Business and Professions Code section 5524 defines a quorum for the Board:

Six of the members of the Board constitute a quorum of the Board for the transaction of business. The concurrence of five members of the Board present at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board, except that when all ten members of the Board are present at a meeting duly held, the concurrence of six members shall be necessary to constitute an act or decision of the Board.

Board Member Roster

Denise Campos

Tian Feng

Pasqual V. Gutierrez

Sylvia Kwan

Ebony Lewis

Robert C. Pearman, Jr.

Nilza Serrano

**AGENDA ITEM B: PRESIDENT’S PROCEDURAL REMARKS AND BOARD
MEMBER INTRODUCTORY COMMENTS**

Board President Sylvia Kwan or, in her absence, the Vice President will review the scheduled Board actions and make appropriate announcements.

AGENDA ITEM C: UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

A DCA representative will provide the Board with an update on the DCA.

AGENDA ITEM D: PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Members of the public may address the Board at this time.

The Board may not discuss or take action on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).

Public comments will also be taken on agenda items at the time the item is heard and prior to the Board taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board President.

AGENDA ITEM E: PRESENTATION OF OCTAVIUS MORGAN DISTINGUISHED SERVICE AWARD TO BARRY N. WILLIAMS

Summary

Named after the first president of the California Architects Board, the Octavius Morgan Distinguished Service Award recognizes individuals who have over the years significantly contributed to the Board's mission through their volunteerism. The Board annually selects award recipients. Nominations are accepted from Board members and staff.

The Board relies on volunteers to assist in developing the California Supplemental Examination and to serve on many of its committees. The Board, at its December 13-14, 2018, meeting selected Barry Williams and Robert Kitamura for 2018.

Board President, Sylvia Kwan will present the award to Mr. Williams at today's meeting.

Action Requested

None

Attachment(s)

None

AGENDA ITEM I: REVIEW AND POSSIBLE ACTION ON JUNE 12, 2019 BOARD MEETING MINUTES

Summary

The Board is asked to review and take possible action on the minutes of the June 12, 2019 Board meeting.

Action Requested

Approval of the June 12, 2019 Board Meeting Minutes.

Attachment(s)

June 12, 2019 Board Meeting Minutes (Draft)

DRAFT
MINUTES
BOARD MEETING
CALIFORNIA ARCHITECTS BOARD
JUNE 12, 2019
SAN LUIS OBISPO

A. CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

On June 12, 2019, Board President, Sylvia Kwan, called the meeting to order at 8:47 a.m. and Secretary, Nilza Serrano, called roll.

Board Members Present

Sylvia Kwan, President
Tian Feng, Vice President
Nilza Serrano, Secretary
Denise Campos
Pasqual Gutierrez
Ebony Lewis
Robert C. Pearman, Jr.
Barry Williams

Board Members Absent

None

Guests Present

Mark Christian, Director of Government Relations, American Institute of Architects, California (AIA California)
Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services, Department of Consumer Affairs (DCA)
Susan Coddington, Vice President Advocacy, International Interior Design Association (IIDA), CID, LEED AP, CDGLA
Robert Kitamura, The Kitamura Company (Kitamura Architecture)

Staff Present

Laura Zuniga, Executive Officer (EO)
Vickie Mayer, Assistant EO
Alicia Hegje, Program Manager Administration/Enforcement
Marccus Reinhardt, Program Manager Examination/Licensing
Trish Rodriguez, Program Manager Landscape Architects Technical Committee (LATC)
Tara Welch, Attorney III, DCA
Gabrial Nessar, Administration Analyst
Mike Sanchez, Television Specialist, DCA

Six members of the Board present constitute a quorum. There being eight present at the time of roll, a quorum was established.

B. PRESIDENT'S PROCEDURAL REMARKS AND BOARD MEMBER INTRODUCTORY COMMENTS

Ms. Kwan made the following announcements: 1) the meeting is being webcast, 2) thanked the California Polytechnic State University (CalPoly) for allowing the Board to hold its meeting on their campus, and 3) all motions will be repeated for the record, and votes on all motions will be taken by roll-call.

F.* PRESENTATION OF OCTAVIUS MORGAN DISTINGUISHED SERVICE AWARD TO ROBERT KITAMURA

Ms. Kwan detailed the over 30-year record of distinguished service provided by Robert Kitamura and presented him with the 2018 Octavius Morgan Distinguished Service Award.

C. UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

Assistant Deputy Director Karen Nelson provided an update on DCA to the Board. Ms. Nelson stated that on April 19, 2019, the Director of DCA, Dean Grafilo submitted his resignation. She indicated that the Governor's Office is in the process of identifying a successor and the Office of Board and Bureau Services is working with the Governor's Office to ensure a smooth transition. Ms. Nelson also mentioned that DCA retained KH Consulting Group to conduct the EO Salary Study. She advised the Study is aimed to provide an in-depth analysis of the programmatic and operational complexities of all boards as well as salary comparisons with other states.

Ms. Nelson informed the Board about recent Budget Change Proposals. She mentioned that the Legislature has approved additional resources for DCA's Central Administration Services for the following areas:

- Fiscal reconciliation issues;
- Division of Investigation to address current enforcement timelines;
- Office of Professional Examination Services (OPES) to ensure that there are adequate resources for examination development; and
- Legal with respect to the Regulations Unit.

In addition, Ms. Nelson informed the Board that 2019 is a mandatory Sexual Harassment Prevention Training year; therefore, all employees and board members are required to complete the training regardless if they took it last year.

D. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Susan Coddington, representing the IIDA emphasized her interests on working together with the Board, AIA California, the California Council for Interior Design Certification (CCIDC), and other entities who are interested in exploring how Commercial Interior Designers (CID) operate within the built-in environment. She indicated that CID is a complex profession and it is integral to the architectural process, but most architects refuse to perform the necessary duties to complete the CID portion of projects. She added that there have been some frustrations with that the CID stamp is not uniformly accepted at building departments throughout the State of California. Ms. Coddington stated that her long-range vision is to change the language in the Legislature so that

CID are recognized in the State. She addressed that she would like to continue the conversation with the Board to work out some of the road blocks and hurdles, so that an understanding could be determined on what could be done in the upcoming years.

Ms. Coddington expressed her interest in the Board arranging a face-to-face meeting with CCIDC, AIA California, IIDA, California Building Officials (CALBO), and the Board so that a title act can be achieved for CID. Ms. Zuniga shared that she envisioned a large group to participate in the meeting, but a smaller group may be more efficient due to scheduling difficulties. Mr. Gutierrez applauded Ms. Coddington's efforts.

E. PUBLIC COMMENT ON DESIGN AFTER DISASTER – DOUGLAS W. BURDGE

Public comments on this agenda item were not provided as Mr. Burdge was unable to attend the meeting.

H. REVIEW AND POSSIBLE ACTION ON FEBRUARY 27, 2019 BOARD MEETING MINUTES

Ms. Kwan asked for comments concerning the minutes of the February 27, 2019 Board meeting.

- **Robert Pearman moved to approve the February 27, 2019 Board meeting minutes.**

Pasqual Gutierrez seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams and President Kwan voted in favor of the motion. The motion passed 8-0.

I. EXECUTIVE OFFICER'S REPORT – UPDATE ON BOARD'S ADMINISTRATION / MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS*

Ms. Zuniga provided the Board with a brief update on its programs:

- In July 2017, DCA implemented FI\$Cal, the statewide system for budgets, accounting, and procurement that the State of California has implemented for all state departments. While DCA has experienced one full fiscal year (FY) using the system and is fast approaching the end of a second year, the transition continues to pose challenges in the reconciliation and closing of FY 2017-18. Staff continuously monitor the Board's budget with the DCA Budget Office. Once the final reports are available, a budget update will be provided at the September Board meeting.
- Business Modernization is in progress. The initial mapping of "As-Is" business processes is being prepared by DCA Office of Change Management for staff review and approval.
- Board and LATC started accepting credit card payments for license renewals.
- Architect Registration Examination (ARE) contract is in process of being finalized.
- ARE contract will run until June 30, 2022 and supersede the current contract set to expire on June 30, 2019.

Agenda item continued after item G.

G. PRESENTATION ON CALIFORNIA POLYTECHNIC STATE UNIVERSITY, SAN LUIS OBISPO – MARGOT MCDONALD, DEPARTMENT HEAD, COLLEGE OF ARCHITECTURE AND ENVIRONMENTAL DESIGN

Barry Williams explained that part of the third-year curriculum at CalPoly includes completion of a two-quarter studio project. He subsequently introduced Katherine Young and Kaleena Klimeck who (along with students from California State University, Chico and Montana State University) worked to propose a redesign of the City of Paradise that was devastated by the November 2018 Camp fire. Mses. Young and Klimeck provided a detailed presentation on the process they undertook with other students to achieve the community service oriented objectives of the project. They informed the Board how the experience influenced their respective outlook on the architecture profession.

I. EXECUTIVE OFFICER'S REPORT – UPDATE ON BOARD'S ADMINISTRATION / MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS (CONTINUED)

Ms. Zuniga continued the update to the Board to include the following:

- Senior Scam Stopper meeting in Paradise
- Changes to the *Disciplinary Guidelines* due to the passage of AB 2138 as well as proposed changes to CCR sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation) including two options.

Ms. Serrano opined the ARE pass rates were low and explained the basis for her concerns to other members. The Board discussed the matter and requested the information provided be verified by staff; if accurate the Board requested the Professional Qualifications Committee (PQC) meet prior to the September 11, 2019 Board meeting and ascertain the reason(s) for the low pass rates in key ARE divisions. The Board asked that any findings made by the PQC be presented at the September meeting.

J. UPDATE AND POSSIBLE ACTION ON 2019 SUNSET REVIEW OF BOARD AND LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC)

Ms. Zuniga briefly indicated that the Sunset Review hearing took place before the Legislature. She advised Board President Sylvia Kwan, LATC Chair Marq Truscott testified, and she and Ms. Rodriguez were present to answer questions. No issues were presented by the Legislature.

K. UPDATE AND POSSIBLE ACTION ON LEGISLATION REGARDING:

1. Assembly Bill (AB) 476 (B. Rubio, 2019) Department of Consumer Affairs: Task Force: Foreign-Trained Professionals

Ms. Zuniga presented this item that requires DCA to appoint a task force with the goal of integrating foreign-trained professionals into the workforce and stated that it was presented for information only and no action was requested. Ms. Serrano commented that she understands the necessity for some professions bringing in foreign trained professionals, but that we have a problem with foreign students taking slots from American students. Mr. Gutierrez suggested this is an ambitious study in scope and timing, and suggested we provide resources on our requirements to DCA.

2. AB 613 (Low, 2019) Professions and Vocations: Regulatory Fees

Ms. Zuniga presented this item, which authorizes boards within DCA to increase fees according to the increase in the Consumer Price Index, outside of the regulatory process. She stated the Board sent a support letter to the author and requested adoption of the support position.

- **Nilza Serrano moved to approve the recommended support position of AB 613.**

Ebony Lewis seconded the motion.

Members Feng, Gutierrez, Lewis, Serrano, Williams and President Kwan voted in favor of the motion. Members Campos and Pearman abstained. The motion passed 6-0-2.

3. AB 626 (Quirk-Silva, 2019) Conflicts of Interest

Ms. Zuniga presented this item, which provides an exemption to existing conflict of interest provisions for certain work performed by a variety of professions, including architects. She stated that it was a two-year bill. Mark Christian said there was opposition from contractor groups and building trades, and sponsors did not have an adequate response to those concerns. He further suggested the Board review all outstanding issues with the bill before considering whether to take a position. Ms. Zuniga stated that she would add it to the September Board meeting agenda and provide a more detailed analysis.

4. Senate Bill (SB) 53 (Wilk, 2019) Open Meetings

Ms. Zuniga presented this item, which amends the Bagley-Keene Open Meetings Act to require two-member advisory bodies to hold open meetings, and stated that it was presented for information only and no action was requested.

5. SB 601 (Morrell, 2019) State Agencies: Licenses: Fee Waiver

Ms. Zuniga presented this item, which authorizes boards within DCA to waive certain fees in the event of a declared emergency.

- **Barry Williams moved to approve the recommended support position of SB 601.**

Tian Feng seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams and President Kwan voted in favor of the motion. The motion passed 8-0.

6. SB 608 (Glazer, 2019) Architects

Ms. Zuniga presented this item, which extends the Board and LATC's sunset dates and makes additional changes, including requiring new applicants for licensure to be fingerprinted in order to complete a criminal background check. She stated that the Board submitted a letter of support and requested approval of the support recommendation.

- **Ebony Lewis moved to approve the recommended support position of SB 608.**

Barry Williams seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams and President Kwan voted in favor of the motion. The motion passed 8-0.

L. REVIEW AND POSSIBLE ACTION ON EXECUTIVE COMMITTEE'S RECOMMENDED AMENDMENTS TO BOARD MEMBER ADMINISTRATIVE MANUAL

Ms. Mayer presented this agenda item. She advised the members that the *Board Member Administrative Manual* was previously presented to the Board at its February meeting with recommended edits made by the Executive Committee. She added the Board requested a clarification of a sentence in the Out-of-State Travel section, specifically "The Board is prohibited from requiring any of its employees, officers, or members to travel to a state that, after June 26, 2015, has enacted a law that ..."

Ms. Mayer advised after consultation with the Board's legal counsel, a suggestion was made to add "or approving a travel request for" after "requiring" so the sentence would read "The Board is prohibited from requiring or approving a travel request for any of its

employees, officers, or members to travel to a state that..." Ms. Mayer suggested the recommended edit may clarify the sentence in question. She asked the Board to consider all of the tracked changes recommended by the Executive Committee and legal counsel.

Ms. Welch informed the sentence in the manual is quoting the statute which prohibits the Board from requiring or approving a travel request to a banned state which may appear on the surface to allow such travel if the members traveled on their own. She advised the members should take heed to the intent language of the statute which is California must take action to avoid supporting or financing discrimination against lesbian, gay, bisexual, and transgender people. With that intent language, she advised the Legislature does not want the Board to travel to the banned states.

Mr. Pearman requested clarification on page 23 of Appendix B related to the composition of the Executive Committee. Specifically, he referred to the immediate past Board president being appointed to the Committee if the past president was no longer a Board member and gave Matt McGuinness as an example. The Board agreed to amend the sentence in Appendix B to read, "The Executive Committee shall be comprised of the current Board president, vice president, secretary, and past Board president or officer."

- **Tian Feng moved to approve the recommended revisions to the *Board Member Administrative Manual* including the composition of the Executive Committee in Appendix B.**

Pasqual Gutierrez seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams and President Kwan voted in favor of the motion. The motion passed 8-0.

M. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Ms. Zuniga stated that the 2019 NCARB Centennial Annual Business Meeting will be held in Washington, DC, on June 20-22, 2019. She added that the Board must submit a "letter of credentials." She advised the letter must indicate the Board's voting delegate (only one) and be signed on behalf of the Board by any duly authorized person (Board officer or Board executive). She further advised the letter was due to NCARB June 2, 2019 and staff submitted a draft version and will submit a final version of the letter after the Board meeting.

- **Robert Pearman moved to approve the NCARB letter of credentials.**

Barry Williams seconded the motion.

There were no comments from the public.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams and President Kwan voted in favor of the motion. The motion passed 8-0.

N. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

Mr. Gutierrez summarized the 2019-2021 Strategic Plan objectives that were discussed by the PQC at its April 18, 2019 meeting along with an overview of the resultant outcomes (see the Minutes for the April 18, 2019 PQC meeting for more details). The Plan objectives discussed by the Committee were:

1. Amend existing law regarding continuing education (CE) requirements for license renewal to reflect the evolving practice;
2. Provide licensees the opportunity to submit CE documentation online to increase efficiency in license renewal;
3. Conduct an occupational analysis (OA) of the profession to reflect current practice; and
4. Review and amend California Code of Regulations (CCR), Title 16, Division 2, Article 3, Section 117 (Experience Evaluation) and related regulations to reflect current licensing requirements.

The Board discussed the PQC objective related to CE and asked how it would pursue amending the requirements in the existing law. Ms. Zuniga advised the Board it would need to seek sponsorship of a bill by any member of the Legislature. She also advised that the Board would need to consider at a future meeting the impacts of any PQC recommendation to effect changes to the requirements. Mark Christian advised the Board that the California Commission on Disability Access (CCDA) was created by the existing law and opined that the CCDA may provide the best path to assist in amending the existing law and requirements. Mr. Christian said he could research the matter and provide more information to the Board at a future meeting.

Marccus Reinhardt advised the Board that in the packet was the final draft of the *Architect Licensure Handbook (Handbook)* for its consideration. He added that input from the Committee and collateral entities, such as The American Institute of Architects Emerging Professionals was incorporated into the final draft under consideration. Mr. Reinhardt explained the *Handbook* would be a living document that would remain in alignment with the evolving profession. Ms. Campos requested data be collected regarding downloads of the *Handbook* after it is published on the Board's website. Mr. Gutierrez requested the information regarding the *Handbook* be included in the Annual Brief sent to licensees.

- **Robert Pearman moved to approve the *Architect Licensure Handbook* as presented to the Board.**

Denise Campos seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams, and President Kwan voted in favor of the motion. The motion passed 8-0.

O. DISCUSS AND POSSIBLE ACTION ON RETIRED LICENSE STATUS FOR ARCHITECTS

Mr. Reinhardt reminded members that at its February 27, 2019 meeting, the Board requested staff research whether other DCA entities have a retired license status and the associated cost, if any, for a retiring a license. He explained the process licensees follow to retire their license. Mr. Reinhardt subsequently advised the title “retired architect” is protected and to use the term requires an individual apply for a retired license. Otherwise, he said it would be a violation of the *Architects Practice Act*. Mr. Reinhardt added that applying for a retired license is not a requirement for any other reason – solely use of the term “retired architect.” Ms. Mayer further explained that to apply for the retired license an individual must possess a renewable license and be in good standing with the Board. Mr. Reinhardt detailed the process when a retired licensee decides to return to practice before the license is nonrenewable. Ms. Zuniga advised the Board that if it considers a reduction or elimination of the fee, staff must assess the impact to the budget and whether it would affect other fees. The Board requested staff to research reducing or eliminating the fee for a retired license and determine its impact upon the Board’s budget and processes.

P. UPDATE ON CONTRACT WITH CEDARS BUSINESS SERVICES, LLC FOR DEBT COLLECTION SERVICES TO COLLECT OUTSTANDING ADMINISTRATIVE FINES AND COST RECOVERIES

Ms. Hegje provided an update on the Board’s contract with Cedars Business Services, LLC, for debt collection services. She informed the Board this bid was sent to seven California small business debt collection vendors and three vendors responded with quotes. She added the contract was awarded to the lowest bidder and in accordance with small business preference guidelines. She advised the contract is a combined effort with LATC to collect outstanding administrative fines and cost recoveries. She informed the Board the contract was approved on April 9, 2019 and is effective through April 8, 2022. Ms. Hegje stated that Board staff continue to work with Cedars to clarify expectations outlined in the contract and receive training on the collection portal.

Ms. Kwan questioned if the maximum amount of the agreement is \$54,000. Ms. Hegje responded that the maximum amount would be revisited and confirmed this was the maximum amount based upon percentage of fines collected.

Ms. Campos questioned how the three firms that submitted proposals were vetted—based upon success rate of collections or solely upon lowest bid. Ms. Mayer stated she would verify; however, to her knowledge, the contract was awarded based solely on low-cost bidder. She further said the Request for Proposal (RFP) was modeled after other proposals prepared by DCA boards. Mr. Feng reiterated that it was his opinion that strength of collection amounts should have been considered.

Ms. Hegje asserted that Board staff would continue to refine the reports received by Cedar. She further stated that staff would gather data on uncollected citations, receive training on the collection agency portal, and continually monitor collection efforts.

Ms. Hegje informed Board members that updates on the effectiveness of the collection efforts would be provided at future Board meetings.

Q. REVIEW AND POSSIBLE ACTION ON ARCHITECT CONSULTANT CONTRACT FOR 2019 – 2022

Ms. Zuniga provide an overview of the Board's architect consultant contract for 2019 - 2022. She explained the Board employs two architect consultants and one contract is due to expire on June 30, 2019, with the remaining contract expiring on January 31, 2020. She advised due to the expiration of the contract an RFP for consultant services for three years (July 1, 2019 through June 30, 2022) was released that invited architects that met eligibility criteria to submit a proposal.

Ms. Zuniga informed the Board that the release of the RFP announcement raised considerable public comments and questions; therefore, the RFP advertisement was removed from the eProcure website. She further explained that staff would work on a modified RFP and explore Subject Matter Expert (SME) contracts for the technical enforcement cases that is used for examination development. She indicated the SME contract process has some benefits to the Board including: three-year contract terms and up to a \$50,000 encumbrance; contracts would be used on case-by-case basis; and SME contracts are easier to execute than the former RFP contracts. Ms. Zuniga stated a notification process would be initiated to recruit SME contractors. Additionally, she shared the Board would be updated on the modified RFP and SME process as the end of the three-year contract will lapse on June 30, 2019.

Ms. Serrano inquired if women and minority are recruited through this process. Ms. Zuniga stated the small business and Disabled Veteran Business Enterprise (DVBE) process was followed.

Mr. Christian requested clarification of the new contract requirement that proposers need to provide evidence of liability insurance. He stated the RFP requested the state as an additional insurer and he brought forward a concern that he believes it is not possible to obtain and, therefore, the insurance requirement could not be met.

Ms. Kwan asked if there would be difficulties in outreach with a SME outside the office. Ms. Hegje said that in the past staff relied heavily on the consultants, but over the last several months the enforcement staff are transitioning workload in-house and use consultants as resources and documenting information obtained during this time. She further stated that two seasoned retired annuitant staff are working part-time which greatly assists with maintaining the Board's enforcement knowledge.

R. UPDATE ON MAY 14, 2019 COMMUNICATIONS COMMITTEE MEETING

Ms. Campos, Chair of the Communications Committee, provided an update on a meeting held on May 14, 2019. She expressed that she would like to see the Committee meet more than once a year. Ms. Campos explained the Committee had six objectives to accomplish and felt that meeting once a year may not allow for completion of these objectives.

Ms. Campos complimented Board staff for their work provided for the Communications Committee meeting. She advised Board staff are working with DCA, Office of Public Affairs, Cheri Gyuro, previously television news journalist who provided an informational presentation that demonstrated ways to create a more robust social media presence and communication plan for the Board. In addition, Ms. Campos stated that social media does not require a budget and opportunities exist using earned media.

Ms. Kwan inquired if other committee chairs would like to meet more than once a year to reach deliverables, as it is very ambitious. Ms. Zuniga suggested she would reach out to committee chairs to discuss additional committee meetings.

S. LATC REPORT

1. Update on May 29, 2019 LATC Meeting
2. Review and Possible Action on LATC's Recommendation Regarding Proposed Amendments to California Code of Regulations (CCR), title 16, Division 26, Article 1, section 2620.5 (Requirements for an Approved Extension Certificate Program)
3. Review and Possible Action on 2019-2021 Strategic Plan Objective to Research the Feasibility of Requiring a License Number on All Correspondence and Advertisement Platforms to Inform and Protect Consumers and Proposed Amendments to CCR, Title 16, Division 26, Section 2671 (Public Presentments and Advertising Requirements)

Trish Rodriguez informed the Board that the LATC met on May 29, 2019 and recommended approval of two regulatory proposals provided within the meeting materials for the Board's consideration. She explained that the first regulatory proposal would amend CCR section 2620.5 which outlines the requirements for an approved extension certificate program. Ms. Rodriguez added that in 2010 the LATC extended certification approval of the University of California, Berkeley and University of California, Los Angeles extension programs until a planned site review could be conducted in 2012. She further explained the LATC previously worked to identify procedures for the approval process through regulation; however, those regulations were denied by the Office of Administrative Law (OAL) in 2013. She informed the Board that the LATC appointed an Extension Certificate Program Subcommittee to identify an appropriate review process and set of requirements for approving the extension certificate programs. She added that the Subcommittee's recommendations were incorporated within the proposed regulatory language approved by the LATC at its meeting on May 29, 2019. She advised the Board that the Subcommittee's recommendations, as well as the current proposed regulatory language, were provided in the Board meeting packet for review and possible approval. She noted that input, provided by DCA Legal Counsel, on the proposed changes was also included in the meeting materials for reference. She clarified that the presented regulatory proposal includes determinations made at the last Committee meeting and additional changes, in line with what was discussed by the LATC, as suggested by DCA Legal Counsel Tara Welch. Ms. Rodriguez shared that the Board received approximately 21 public comments in support of the changes from various organizations including the American

Society of Landscape Architects (ASLA), the Association of Professional Landscape Designers (APLD), landscape architecture faculty, and students.

Ms. Welch directed the Board members to the included proposed regulatory language and explained that the changes indicated in yellow highlight were not reviewed by the LATC. She explained that most of these changes are minor apart from the proposed revisions on page three addressing a potential financial conflict of interest regarding individuals who may be designated by the Board to perform a site inspection or review of an education program. Ms. Welch explained that the proposal would establish a site visit review team of Board designees made up of three members that would travel to the extension certificate programs to evaluate whether they are providing appropriate education to the students. She explained that the Subcommittee initially proposed including a faculty member of an education program accredited by the Landscape Architectural Accreditation Board (LAAB); however, because LAAB-accredited programs are in competition with the extension certificate programs, she advised against including that requirement in the proposal. She argued that a faculty member of an LAAB-accredited program should not be involved in these types of site reviews because they could potentially sway a negative recommendation to their direct competition. She expanded that the LATC's reasoning behind suggesting an LAAB faculty member was that they might have experience with the accreditation process. Ms. Welch added that because extension certificate programs are not currently accredited by the LAAB, the provided regulatory proposal aims to develop an appropriate way to review and approve these programs as they are necessary in California for the landscape architect students who can only attend night school and need this kind of alternative education.

Ms. Welch explained that the current regulation is insufficient for several reasons including that it does not specify expiration of the Board approval period. She added that the LATC determined three Board designees should conduct each site visit with at least one designee being an LATC member. She directed the Board members to the provided regulatory proposal and clarified that the current proposed language specifies that the Board designees shall include one member of the Committee and no more than one individual affiliated with the educational program under review, meaning any prior or current faculty member of the educational program or an individual who has taken courses at the educational program.

Ms. Welch explained that after the Board meeting materials were printed she prepared a revised proposal that would prohibit any individual with a current financial interest related to the recommendation of the extension certificate program from serving on a site visit review team. She presented the members with her proposed revisions to CCR section 2620.5(c). Ms. Campos asked if there was a general rule that Board and Committee members must recuse themselves if they have any kind of conflict of interest. Ms. Welch responded that this provision would refer to the possible financial interest of an individual designated by the Board to conduct a site review. She added that this provision would exclude any individual with a financial conflict such as an LAAB

faculty member trying to eliminate the competition, a current faculty member of the extension certificate program, or a current student of the extension certificate program. Mr. Feng questioned how the Committee could enforce such a high level financial conflict of interest clause without clarifying each possible scenario in regulation. He asked if it would be better to default to the general Board member training. Ms. Welch clarified that the Board designees in question would not necessarily receive the same Board member orientation. She expanded that the proposal would also add reference to section 87100 of the Government Code that further clarifies how the Board designees are subject to conflict of interest prohibitions. Ms. Mayer questioned if the OAL could approve the previously considered proposal that did not outline a possible conflict of interest. Ms. Welch explained that it would be difficult for Board staff to justify using the previous proposal in the rulemaking package; therefore, she recommends referencing the existing conflict of interest statute as proposed.

- **Denise Campos moved to approve the proposed regulatory changes, as modified, to CCR section 2620.5.**

Nilza Serrano seconded the motion.

Mr. Feng shared that at the May 29, 2019 LATC meeting, at least one Committee member felt very strongly that the site visit review team should include an expert from the faculty of an LAAB-accredited program. He expressed concern that by voting on the proposal as presented the Board may contradict the LATC's preference. Ms. Kwan opined that faculty of an LAAB-accredited program should be impartial and that the regulation should not preclude such individuals from serving on a site visit review team. Mr. Feng asked how a financial conflict of interest could exist as such individuals would not personally gain anything by participating in the site review. Ms. Welch clarified that it could be considered a conflict of interest if the site visit review team makes a negative recommendation because the program with which the Board designee is affiliated could thrive if the extension certificate program closes. Ms. Serrano added that the Board must consider that there is the possibility that a Board designee could sway the recommendation for personal benefit and that she supports the staff recommendation. Mr. Pearman questioned how the Board designees would be determined. Ms. Welch responded that Board and Committee staff could work together to either generate a notice to the public so that individuals could effectively apply to be a Board designee, or alternatively, a knowledgeable Board staff person could be assigned to the site visit review team. Ms. Rodriguez added that in the past the Committee has recommended appointees to the site visit review teams. Mr. Pearman questioned if a retired LAAB faculty member would be considered to have a financial conflict of interest. Ms. Welch replied that a retired faculty member may not have a current conflict of interest as they would no longer have a personal association with the program.

Ms. Welch suggested Ms. Campos consider modifying the motion.

- **Denise Campos amended her motion to approve the proposed regulatory changes, as modified, to CCR section 2620.5, direct the EO to take all steps necessary to initiate the rulemaking process, authorize the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes as modified.**

Nilza Serrano seconded the amended motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams, and President Kwan voted in favor of the motion. The motion passed 8-0.

Ms. Rodriguez presented a second regulatory proposal that would amend CCR section 2671 to expand all public presentations to include a license number. She added that this proposal is part of an LATC Strategic Plan objective and at its meeting on May 29, 2019, the LATC voted to recommend to the Board approval of the proposed regulatory amendments to CCR section 2671.

- **Tian Feng moved to approve the proposed regulatory changes to CCR section 2671, direct the EO to take all steps necessary to initiate the rulemaking process, authorize the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period and if no adverse comments are received during the 45-day comment period and no hearing is requested adopt the proposed regulatory changes as modified.**

Nilza Serrano seconded the motion.

Members Campos, Feng, Gutierrez, Lewis, Pearman, Serrano, Williams, and President Kwan voted in favor of the motion. The motion passed 8-0.

T. REVIEW OF FUTURE BOARD MEETING DATES

Ms. Zuniga indicated that the future Board meeting dates are in the packet and an update will be sent regarding the December 11, 2019 Board meeting location.

U. ADJOURNMENT

The meeting adjourned at 12:44 p.m.

**Agenda items for this meeting were taken out of order to accommodate presenters of items. The order of business conducted herein follows the transaction of business.*

**AGENDA ITEM J: EXECUTIVE OFFICER’S REPORT – UPDATE ON BOARD’S
ADMINISTRATION/MANAGEMENT, EXAMINATION,
LICENSING, AND ENFORCEMENT PROGRAMS**

The Executive Officer, Laura Zuniga, will provide an update on the Board’s Administration/Management, Examination, Licensing, and Enforcement programs.

Attachment(s)

Executive Officer’s Report Dated July 31, 2019



MEMORANDUM

| | |
|----------------|---|
| DATE | July 31, 2019 |
| TO | Board and Landscape Architects Technical Committee (LATC) Members |
| FROM | Laura Zuniga, Executive Officer |
| SUBJECT | Executive Officer Report |

The following information is provided as an overview of Board activities and projects as of July 31, 2019.

Administrative/Management

Board The Board met on June 12, 2019 at the California Polytechnic State University, San Luis Obispo. The next meetings are planned for September 11, 2019, (Pleasant Hill) and December 11, 2019 (Los Angeles).

Budget In July 2017, the Department of Consumer Affairs (DCA) implemented the FI\$Cal system, the statewide system for budgets, accounting, and procurement that the State of California has implemented for all state departments. The transition continues to pose challenges in the reconciliation and closing of fiscal year (FY) 2017-18. The final financial reports for FY 2017-18 are expected in August 2019. Staff continuously monitor the Board’s budget with the DCA Budget Office staff. Once the final reports are available, a budget update will be provided to the Board.

On July 1, 2019, DCA received notice that the Department of Justice (DOJ) Attorney General Office hourly rates for legal services would increase. Upon approval by the Department of Finance, the new legal billing rates are expected to become effective on September 1, 2019. DCA Budget Office met with the Board and LATC on July 19, 2019 after analysis of the programs. Based on projected savings for FY 18-19, both the Board and LATC can absorb the increased cost. However, the DCA Budget Office is confirming the source of the savings and additional information to determine if a budget augmentation may be needed in the future.

Business Modernization In December 2017, the Board, in collaboration with the DCA, finalized its Business Modernization Plan (Plan) to effectively facilitate the analysis, approval, and potential transition to a new licensing and enforcement platform.

Key elements of the Plan specific to the needs of the Board and LATC include: 1) Business Activities, 2) Project Approval Lifecycle, and 3) System Implementation. Business Activities are scheduled from October 2018 through October 2019, the Project Approval Lifecycle from July 2019 through November 2020, and System Implementation from November 2020 through November 2022. The initial mapping of “As-Is” business processes was prepared by DCA Organizational Improvement Office (OIO) and have been approved by the Executive Officer. Similarly, the next “Could-Be” business mapping phase was conducted between April and June 2019, from which the Functional Requirements document was developed by OIO and provided to the Board on July 19, 2019. The next steps will be to commence the Project Approval Lifecycle (PAL) activities, which are scheduled to be completed by November 3, 2020. PAL activities with OIS Project Management Office will begin upon completion of Business Activities, including approval of all Could-Be maps. The first major software release is scheduled for November 1, 2021 and the project is estimated to be completed on November 1, 2022.

The Board and LATC pursued a stop gap measure to accept online credit card payments for license renewal applications, our highest volume transaction. The acceptance of online credit card payments for license renewal launched on February 5, 2019, for the Board and on April 23, 2019, for LATC.

Newsletter The *California Architects* newsletter was published on May 24, 2019. The next issue of the newsletter is planned for publication in August 2019.

Outreach On August 1–3, 2019, National Council of Architectural Registration Boards (NCARB) will be holding its biennial Licensing Advisors Summit. The Board’s Examination and Licensing Analyst, Timothy Rodda, will be attending and participating in a round table discussion on licensure titling.

Personnel Ryan Booth accepted a promotion at the Division of Investigation (DOI). His last day at the Board was June 11, 2019. Amir Larian accepted a promotion at the Board of Accountancy. His last day with the Board was July 30, 2019. Recruitment efforts are underway to fill both positions.

Social Media The Board has expanded its social media presence to include four platforms, which are shown in the following table:

Social Media Statistics (As of August 1, 2019)

| Platform | Q2* Posts | Q1* Posts | Difference | Followers 8/16/19* | Followers 5/3/19* | Difference |
|---------------------------------|-----------|-----------|------------|--------------------|-------------------|------------|
| Twitter (launched in 2014) | 27 | 5 | 440% | 1,260 | 1,240 | 1.6% |
| Instagram (launched in 2016) | 17 | 0 | all | 624 | 541 | 15% |
| Facebook (launched in 2017) | 29 | 13 | 120% | 120 | 106 | 13% |

| Platform | Q2* Posts | Q1* Posts | Difference | Followers 8/16/19* | Followers 5/3/19* | Difference |
|----------------------------------|--------------|--------------|------------|-----------------------|----------------------|------------|
| LinkedIn (launched July 2019) | 1 | new | new | 122 | new | new |

*Q1 February - April; Q2 May - July

Website Staff added an advisement to consumers recommending they verify the identity of an architect by requesting to see a current and valid architect license accompanied by a state driver license or identification card prior to commencing any project. Staff is also reviewing documents on the Board's website for compliance with the latest accessibility requirements mandated by Government Code (Gov.) section 11546.7. The Candidate section of the website was also updated to reflect the content and information found in the new *Architect Licensure Handbook*.

Examination and Licensing Programs

Architect Registration Examination (ARE) Performance data for ARE administrations to California candidates and comparisons to national performance are shown in the following tables:

Candidate Performance ARE 5.0 (April 1, 2019 to June 30, 2019)

| ARE Division | Divisions Administered | Pass | | Fail | |
|-------------------------------------|------------------------|-------|------|-------|------|
| | | Total | Rate | Total | Rate |
| Construction & Evaluation | 196 | 127 | 65% | 69 | 35% |
| Practice Management | 429 | 190 | 44% | 239 | 56% |
| Programming & Analysis | 386 | 158 | 41% | 228 | 59% |
| Project Development & Documentation | 332 | 145 | 44% | 187 | 56% |
| Project Management | 306 | 174 | 57% | 132 | 43% |
| Project Planning & Design | 457 | 152 | 33% | 305 | 67% |

**Candidate Performance ARE 5.0
(FY 2018/19)**

| ARE Division | Divisions Administered | Pass | | Fail | |
|-------------------------------------|------------------------|-------|------|-------|------|
| | | Total | Rate | Total | Rate |
| Construction & Evaluation | 685 | 435 | 64% | 250 | 36% |
| Practice Management | 1,497 | 669 | 45% | 828 | 55% |
| Programming & Analysis | 1,245 | 559 | 45% | 686 | 55% |
| Project Development & Documentation | 1,357 | 588 | 43% | 769 | 57% |
| Project Management | 1,015 | 583 | 57% | 432 | 43% |
| Project Planning & Design | 1,693 | 596 | 35% | 1,097 | 65% |

**California to National ARE 5.0 Performance Comparison
(FY 18/19)**

| ARE Division | California | | National | Delta % (▲%) |
|-------------------------------------|------------|--------|----------|-----------------|
| | Total | Passed | Passed | |
| Construction & Evaluation | 685 | 64% | 71% | -7% |
| Practice Management | 1,497 | 45% | 49% | -4% |
| Programming & Analysis | 1,245 | 45% | 53% | -8% |
| Project Development & Documentation | 1,357 | 43% | 50% | -7% |
| Project Management | 1,015 | 57% | 62% | -5% |
| Project Planning & Design | 1,693 | 35% | 43% | -8% |

▲% is the difference in the California and national (NCARB) pass rates.

**Multi-Year California to National ARE 5.0 Performance Comparison
(FY 2017/18 and 2018/19)**

| DIVISION | FY 2017/18 ARE 5.0 | | | FY 2018/19 ARE 5.0 | | |
|-------------------------------------|--------------------|---------------|-----|--------------------|---------------|-----|
| | CA Pass | National Pass | ▲% | CA Pass | National Pass | ▲% |
| Construction & Evaluation | 62% | 69% | -7% | 64% | 71% | -7% |
| Practice Management | 48% | 52% | -4% | 45% | 49% | -4% |
| Programming & Analysis | 45% | 54% | -9% | 45% | 53% | -8% |
| Project Development & Documentation | 50% | 55% | -5% | 43% | 50% | -7% |
| Project Management | 61% | 62% | -1% | 57% | 62% | -5% |
| Project Planning & Design | 43% | 49% | -6% | 35% | 43% | -8% |

▲% is the difference in the California and national (NCARB) pass rates.

California Supplemental Examination (CSE) The current Intra-Agency Contract Agreement with the OPES for examination development for FY 2019/20 expires on June 30, 2020.

Business and Professions Code (BPC) section 139 requires the Board to report on its licensure examination program to the Legislature each fiscal year. On July 30, 2019, staff provided the required data to OPES for inclusion in DCA's Annual Report.

The pass rates for CSE administrations in July 2019 and the prior FY are displayed in the following tables:

**CSE Performance by Candidate Type
(July 2019)**

| Candidate Type | Pass | | Fail | | TOTAL |
|------------------------|-------|------|-------|------|-------|
| | Total | Rate | Total | Rate | |
| Instate First-time | 35 | 74% | 12 | 26% | 47 |
| Instate Repeat | 25 | 61% | 16 | 39% | 41 |
| Reciprocity First-time | 13 | 72% | 5 | 28% | 18 |

| Candidate Type | Pass | | Fail | | TOTAL |
|------------------------|-------|------|-------|------|-------|
| | Total | Rate | Total | Rate | |
| Reciprocity Repeat | 8 | 80% | 2 | 20% | 10 |
| Relicensure First-time | 1 | 100% | 0 | 0% | 1 |
| Relicensure Repeat | 0 | 0% | 0 | 0% | 0 |
| TOTAL | 82 | 70% | 35 | 30% | 117 |

**CSE Performance by Candidate Type
(FY 2018/19)**

| Candidate Type | Pass | | Fail | | TOTAL |
|------------------------|-------|------|-------|------|-------|
| | Total | Rate | Total | Rate | |
| Instate First-time | 432 | 64% | 239 | 36% | 671 |
| Instate Repeat | 191 | 57% | 144 | 43% | 335 |
| Reciprocity First-time | 141 | 57% | 106 | 43% | 247 |
| Reciprocity Repeat | 40 | 57% | 30 | 43% | 70 |
| Relicensure First-time | 3 | 30% | 7 | 70% | 10 |
| Relicensure Repeat | 1 | 33% | 2 | 67% | 3 |
| TOTAL | 808 | 60% | 528 | 40% | 1336 |

Professional Qualifications Committee (PQC) The next PQC meeting will be held via teleconference on October 22, 2019.

Regulatory Proposals CCR Sections 124 (California Supplemental Examination) and 124.5 (Review of California Supplemental Examination) The Board approved proposed regulatory language to amend CCR sections 124 and 124.5 at its March 1, 2018, meeting and delegated authority to the Executive Officer (EO) to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the Board's regulatory proposal for CCR sections 124 and 124.5:

| | |
|----------------|---|
| March 1, 2018 | Proposed regulatory language approved by the Board |
| June 12, 2018 | Proposed regulation submitted to DCA Legal for prereview |
| July 2, 2018 | DCA Legal concluded prereview |
| July 5, 2018 | Proposed regulation submitted to DCA Legal for initial analysis |
| April 26, 2019 | Proposed regulatory language approved by Business, Consumer Services and Housing Agency |
| May 24, 2019 | Notice of Proposed Changes in the Regulations published by OAL |
| July 8, 2019 | Public hearing, no comments received |
| July 9, 2019 | Final rulemaking file submitted to DCA Legal Office |

Enforcement Program

Enforcement Actions

Sara Olson (Beverly Hills) The Board issued a one-count citation that included a \$1,000 administrative fine to Sara Olson, dba Beverly Hills One, an unlicensed individual, for an alleged violation of Business and Professions Code section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that on or about February 7, 2019, Olson's personal Facebook and LinkedIn profiles identified her as an "Architect" and her LinkedIn profile included "Architecture" under her *Industry Knowledge*. The citation became final on April 3, 2019.

Irena Stepanova (Los Altos) The Board issued a one-count citation that included a \$1,500 administrative fine to Irena Stepanova, architect license number C-33609, for an alleged violation of Business and Professions Code section 5536.22(a) (Written Contract). The action alleged that Stepanova failed to execute a written contract with her client prior to commencing professional services for a residential project located in Belmont, California. Stepanova paid the fine, satisfying the citation. The citation became final on April 3, 2019.

Xia Youwei (Baldwin Park) The Board issued a modified one-count citation that included a \$750 administrative fine to Xia Youwei, dba Richard Construction & Design, an unlicensed individual, for an alleged violation of Business and Professions Code (BPC) section 5536(a) (Practice Without License or Holding Self Out as Architect) and California Code of Regulations section 134(a) (Use of the Term Architect). The action alleged that Youwei executed a contract with his client on or about November 24, 2017, wherein the client paid a deposit in the amount of \$500. The contract was identified as an "Architectural Contract" and included the terms "Architect" and "Architectural" to describe himself and his company's services. Youwei's business card offered "Architectural Design" services for residential and commercial projects. These devices might indicate to the public that Youwei is an architect or qualified to engage in the practice of architecture in California. Board records reflect that Youwei is not a licensed architect, and Youwei used the business name "Richard Construction and Design," which included the terms "architectural" and "architects" in its description of services, without an architect who is in management control of the services that are offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity as required under BPC section 5558. Youwei paid the fine, satisfying the citation. The citation became final on April 12, 2019.

Caesar C. Alzate (Anaheim) The Board issued a one-count citation that included a \$500 administrative fine to Caesar C. Alzate, architect license number C-12276, for an alleged violation of Business and Professions Code section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Alzate certified false or misleading information on his 2018 License Renewal Application. Alzate paid the fine, satisfying citation. The citation became final on April 29, 2019.

Frank Joseph Mungia (Fresno) The Board issued a two-count citation that included a \$2,000 administrative fine to Frank Joseph Mungia, architect license number C-12995, for alleged violations of Business and Professions Code (BPC) section 5579 (Fraud in Obtaining a License). The action alleged that Mungia submitted false statements under penalty of perjury on both of his 2015 and 2017 License Renewal Applications when he answered "no" to the following question: "In the preceding renewal period, have you been disciplined by a public agency or have you been convicted of a crime in any state, the USA and its territories, federal jurisdiction, military court, or other country, which involved a plea or verdict of guilty or a conviction following a plea of nolo contendere?" On May 15, 2015, a Stipulated Settlement and Disciplinary Order for the Board for Professional Engineers, Land Surveyors, and Geologists became effective, based on an Accusation filed on April 18, 2014, against Mungia for violations of negligence, breach of contract and criminal conviction. Mungia paid the fine, satisfying the citation. The citation became final on April 29, 2019.

Eran Gispan (Sherman Oaks) The Board issued a one-count citation that included a \$1,500 administrative fine to Eran Gispan, dba NE Designs, Inc., an unlicensed individual, for alleged violations of Business and Professions Code (BPC) section 5536.1(c) (Signature and Stamp on Plans and Documents; Unauthorized Practice; Misdemeanor). The action alleged that Gispan prepared plans for a four-story residence, not a two-story as agreed upon, and the plans were not stamped by a licensed professional. The plans prepared by Gispan indicated four distinct living levels in the house, which is not a building exempt from the requirements of the Architects Practice Act pursuant to BPC sections 5537(a) and 5538, constituting the practice of architecture as defined in BPC section 5500.1. Gispan paid the fine, satisfying the citation. The citation became final on May 10, 2019.

Carl Maletic (Morongo Valley) The Board issued a two-count citation that included a \$2,000 administrative fine to Carl Maletic, architect license number C-24044, for alleged violations of Business and Professions Code section 5536.22(a) (Failure to Execute Written Contract Prior to Commencing Work) and California Code of Regulations, title 16, section 160(b)(2) (Willful Misconduct; Failure to Respond to Board Investigation). The first cause for citation alleged that on or about May 2, 2018, Maletic failed to execute a written contract with his client prior to commencing professional services for a residential project located in Palm Springs, California. The second cause for citation alleged that Maletic failed to respond to the Board's requests for information regarding an investigation within 30 days. The citation became final on June 3, 2019.

Brian R. Regehr (Turnwater, WA) The Board issued a two-count citation that included a \$1,500 administrative fine to Brian R. Regehr, an unlicensed individual, for alleged violations of Business and Professions Code section 5536(a) (Practice Without License or

Holding Self Out as Architect) and California Code of Regulations, title 16, section 134(a) (Use of the Term Architect). On or about January 31, 1995, Regehr's architect license number C-9580 expired and may not be renewed, restored, reissued, or reinstated.

The first cause for citation alleged that Regehr's business card for RoundDwell, business name "Regehr & Associates/Architect," billing invoices, and website, wherein Regehr used "architect" multiple times and described his services as "architectural," show that he offered and stated that he performed services that required a license and engaged in the practice of architecture in California without a license.

The second cause for citation alleged that Regehr used the business names "RoundDwell" and "Regehr & Associates/Architect," which included the terms "architect" and "architecture" in the title and description of services, without a California licensed architect who is in management control of the services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on June 3, 2019.

Richard J. Moriwaki (Los Angeles) The Board issued a one-count citation that included a \$500 administrative fine to Richard J. Moriwaki, architect license number C-15062 for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Moriwaki certified false or misleading information on his 2019 License Renewal Application. Moriwaki paid the fine, satisfying the citation. The citation became final on June 4, 2019.

Lawrence James Chalk (Oak View) The Board issued a two-count citation that included a \$2,000 administrative fine to Lawrence James Chalk, architect license number C-21565, for alleged violations of Business and Professions Code (BPC) section 5584 (Willful Misconduct) and California Code of Regulations (CCR), title 16, section 160(b)(2) (Willful Misconduct; Failure to Respond to Board Investigation). The action alleged that Chalk received a total of \$500 from his client as a down payment for architectural and engineering services and failed to either provide the client with the architectural and engineering services for which he was paid or refund the prepaid fees for those services to the client. Chalk also failed to respond to the Board's requests for information regarding an investigation within 30 days. The citation became final on June 7, 2019.

Jesus Manuel "Jesse" Guardado (Los Angeles) The Board issued a one-count citation that included a \$1,000 administrative fine to Jesus Manuel "Jesse" Guardado, an unlicensed individual, for an alleged violation of Business and Professions Code section 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that on or about February 26, 2016, Guardado presented his client with a "Proposal for Architectural and Engineering plans," which included the term "Architectural" to describe his company's services, and offered "Architectural and Engineering services," "Architectural/Design" development, and structural analysis of the "architectural design." The citation became final on June 11, 2019.

Jack Martin Lanphere III (Beaumont) The Board issued a two-count citation that included a \$5,000 administrative fine to Jack Martin Lanphere III, dba L&S Architects, Inc., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without

License or Holding Self Out as Architect) and California Code of Regulations (CCR), title 16, section 134(a) (Use of the Term Architect). The action alleged that multiple online profiles for the company, L&S Architects, Inc., unlawfully advertised architectural services and such advertising and devices might indicate to the public that Lanphere is an architect or qualified to engage in the practice of architecture. The action also alleged that Lanphere unlawfully used the term “architect” in the business name, L&S Architects, Inc., because Lanphere is not an architect in management control of the professional services offered and provided by the business. Lanphere paid the fine, satisfying the citation. The citation became final on July 11, 2019.

Jennifer H. Wen (Santa Monica) The Board issued a two-count citation that included a \$750 administrative fine to Jennifer H. Wen, architect license number C-27474, for alleged violations of BPC sections 5600.05(a)(1) and 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Wen certified false or misleading information on her 2018 License Renewal Application and failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Wen paid the fine, satisfying the citation. The citation became final on June 11, 2019.

Charles M. Clements (Placentia) The Board issued a one-count citation that included a \$500 administrative fine to Charles M. Clements, architect license number C-26257, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Clements failed to complete five hours of coursework within the two years prior to his license renewal and provided false or misleading information on his 2019 License Renewal Application as it related specifically to the coursework on disability access requirements. Clements paid the fine, satisfying the citation. The citation became final on July 19, 2019.

John M. Oda (Rancho Palos Verdes) The Board issued a one-count citation that included a \$500 administrative fine to John M. Oda, architect license number C-24097, for an alleged violation of BPC section 5600.05(a)(1) and (2)(C) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Oda failed to complete five hours of coursework within the two years prior to his license renewal and provided false or misleading information on his 2019 License Renewal Application as it related to the coursework on disability access requirements. Oda paid the fine, satisfying the citation. The citation became final on July 22, 2019.

Lawrence Lee Strain (Emeryville) The Board issued a one-count citation that included a \$500 administrative fine to Lawrence Lee Strain, architect license number C-21298, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Strain failed to complete five hours of coursework within the two years prior to his license renewal and provided false or misleading information on his 2019 License Renewal Application as it related to the coursework on disability access requirements. Strain paid the fine, satisfying the citation. The citation became final on July 22, 2019.

Min Kevin Chung (Rosemead) The Board issued a one-count citation that included a \$500 administrative fine to Min Kevin Chung, architect license number C-33001 for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chung certified false or misleading information on his 2019 License Renewal Application. Chung paid the fine, satisfying the citation. The citation became final on June 26, 2019.

Joseph Eugene Clark (Bakersfield) The Board issued a one-count citation that included a \$500 administrative fine to Joseph Eugene Clark, architect license number C-21195, for an alleged violation of Business and Professions Code (BPC) section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Clark certified false or misleading information on his 2019 License Renewal Application. Clark paid the fine, satisfying the citation. The citation became final on July 30, 2019.

Diane Strassmaier (Ross) The Board issued a one-count citation that included a \$500 administrative fine to Diane Strassmaier, architect license number C-22793, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Strassmaier failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Strassmaier paid the fine, satisfying the citation. The citation became final on July 30, 2019.

Vina Lustado (Ojai) The Board issued a two-count citation that included a \$1,000 administrative fine to Vina Lustado, dba Sol Haus Design, an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR section 134(a) (Use of the Term Architect). The action alleged that Lustado's business profile on Houzz unlawfully identified her business as an "Architectural Design Firm," and listed her business under the category "Architects and Designers," a device that might indicate to the public that she is an architect or qualified to engage in the practice of architecture. The action also alleged that Lustado's Houzz.com profile for her business "Sol Haus Design" was unlawfully categorized under "Architects and Building Designers" and described as "Ojai Valley's Environmentally Responsible Architectural Design Firm," without a California licensed architect who is in management control of the services that are offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on July 31, 2019.

Disciplinary Actions

Jacob Slater Bunting (Penryn) Effective April 5, 2019, Jacob Slater Bunting's architect license number C-33928, was surrendered, and he thereby loses all rights and privileges of an architect in California. The action was a result of a Stipulated Surrender of License and Order, which was adopted by the Board.

An Accusation was filed against Bunting for alleged violations of BPC sections 5577 (Conviction of Certain Crimes) and 490 (Conviction of Crime).

The Accusation alleged that on or about May 25, 2016, in the criminal proceeding titled *People vs. Jacob Slater Bunting*, Slater was convicted by the Placer County Superior Court, on his plea of nolo contendere, of violating one count of Penal Code (PC) section 288.4(b) (meeting with minor for lewd and lascivious act), a felony, one count of PC section 288a(b)(1) (oral copulation of person under 18 years old), a felony, and two counts of PC section 261.5(c) (unlawful sexual intercourse with a minor), a felony, with an enhancement under PC section 12022.1(b) (secondary offense while released from custody on primary offense). On or about July 6, 2016, Bunting was sentenced to six years and four months in state prison and was ordered to register as a sex offender pursuant to PC section 290.

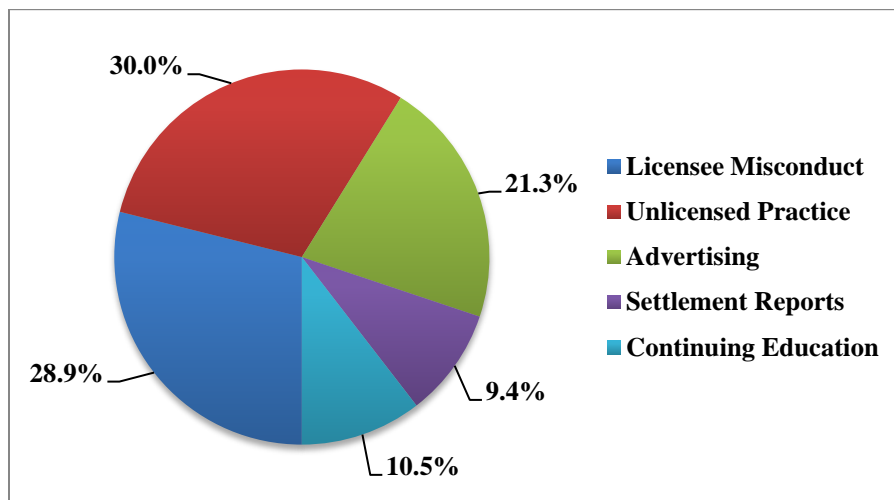
On or about February 5, 2019, Deputy Attorney General (DAG) Anahita S. Crawford submitted a Stipulated Surrender of License and Order to the Board for its consideration. The Stipulated Surrender of License and Order include terms and conditions that are consistent with the Board's Disciplinary Guidelines.

On March 6, 2019, the Board adopted the Stipulated Surrender of License and Order, which became effective on April 5, 2019.

| <u>Enforcement Statistics</u> | <u>Current Month</u> | <u>Prior Month</u> | <u>FY18-19</u> | <u>FY17-18</u> |
|--|----------------------|--------------------|----------------|----------------|
| | July 2019 | June 2019 | 2018/19 | 2017/18 |
| Complaints | | | | |
| Received/Opened | 51 (0) | 51 (0) | 310 (2) | 380 (2) |
| Closed: | 56 | 47 | 314 | 334 |
| Average Days to Close: | 79 days | 165 days | 188 days | 97 days |
| Pending: | 141 | 140 | 150* | 161 |
| Average Age of Pending: | 207 days | 243 days | 230 days* | 161 days |
| Citations | | | | |
| Issued: | 13 | 1 | 48 | 65 |
| Pending: | 6 | 2 | 32* | 0 |
| Pending AG: † | 1 | 0 | 3* | 0 |
| Final: | 6 | 8 | 55 | 58 |
| Disciplinary Actions | | | | |
| Pending AG: | 5 | 4 | 6* | 4 |
| Pending DA: | 0 | 0 | 1* | 1 |
| Final: | 0 | 0 | 1 | 3 |
| Continuing Education (§5600.05)** | | | | |
| Received/Opened: | 2 | 11 | 35 | 32 |
| Closed: | 0 | 8 | 24 | 30 |
| Pending: | 2 | 3 | 11* | 10 |
| Settlement Reports (§5588)** | | | | |
| Received/Opened: | 4 | 2 | 24 | 14 |
| Closed: | 2 | 2 | 15 | 14 |
| Pending: | 10 | 5 | 9* | 0 |

* Calculated as a monthly average of pending cases.
 ** Also included within "Complaints" information.
 † Also included within "Pending Citations."

Types of Complaints Received FY 2018/19



Closure of Complaints by FY

| Type of Closure | FY 2018/19 | FY 2017/18 | FY 2016/17 |
|---|------------|------------|------------|
| Cease/Desist Compliance | 10 | 9 | 67 |
| Citation Issued | 43 | 64 | 30 |
| Complaint Withdrawn | 10 | 8 | 6 |
| Insufficient Evidence | 16 | 14 | 8 |
| Letter of Advisement | 120 | 157 | 99 |
| No Jurisdiction | 13 | 15 | 13 |
| No Violation | 74 | 40 | 52 |
| Referred for Disciplinary Action | 4 | 5 | 4 |
| Other (i.e., Duplicate, Mediated, etc.) | 30 | 25 | 12 |

Most Common Violations The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

During FY 2018/19 42 citations with administrative fines became final with 58 violations of the provisions of the Act and/or Board regulations. The most common violations that resulted in enforcement action during the current and previous two fiscal years are listed below.

| Business and Professions Code (BPC) Section or California Code of Regulations (CCR) Section | FY 2018/19 | FY 2017/18 | FY 2016/17 |
|--|-------------------|--------------------|-------------------|
| BPC § 5536(a) and/or (b) – Practice Without License or Holding Self Out as Architect | 25.4% | 8.1% | 38.0% |
| BPC § 5536.1(c) – Unauthorized Practice | 0% | 3.2% | 0% |
| BPC § 5536.22(a) – Written Contract | 6% | 1.6% | 14.0% |
| BPC § 5584 – Negligence or Willful Misconduct | 6% | 1.6% | 4.0% |
| BPC § 5600.05(a)(1) and/or (b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements | 37.3% | 77.4% [†] | 16.0% |
| CCR § 160(b)(2) – Rules of Professional Conduct | 7.5% | 4.8% | 6.0% |

† The high percentage of citations for BPC section 5600.05 violations compared to other violations is primarily due to vacancies in the Enforcement Unit.

Outreach The Board began recruitment efforts for Subject Matter Experts (SME) on July 5, 2019, to provide case review, technical evaluation, and courtroom testimony as needed for the Board’s Enforcement program. Existing Board staff and departmental investigators require technical assistance to handle the complex complaints and inquiries.

It is anticipated that numerous SME’s throughout the state will be retained under a three-year contract. The SME hourly rate will be fixed at \$90 per hour for case review and \$110 per hour for courtroom testimony. The contracted SME will assist Board staff evaluate consumer complaints, provide guidance to the DOI and Attorney General in technical matters, act as an expert witness, and testify at disciplinary hearings and criminal cases regarding matters within the jurisdiction of the *Architects Practice Act*.

The SME candidate must meet the following minimum qualifications: 1.) reside in California; 2.) possess an active license to practice architecture in California, and have no history of enforcement and/or administrative actions; 3.) have been in practice, as

defined in BPC section 5500.1, within California for the last five years; 4.) have experience preparing expert analysis for, or testifying in a minimum of three architecture-related civil or administrative law matters; and 5.) be available to respond to technical inquiries from Board staff approximately one hour per week and perform a timely review (typically within 30 days) of at least three cases per year.

If awarded a contract, the SME shall agree not to: 1.) use their status as a Board expert in any advertising or sales promotion; 2.) solicit for completion of any work that they investigate as a Board expert; 4.) falsify any official documents; 5.) give false or incomplete testimony; 6.) release confidential Board information; and 7.) accept employment with another state agency.

On May 3, 2019, the Board's enforcement staff attended a Senior Scam Stopper meeting in Paradise. The town of Paradise was destroyed in November 2018 by a natural wildfire named Camp Fire and has been declared as the Deadliest Wildfire in California. During this meeting staff discussed how the community can protect themselves from unlicensed practice and the role of a licensed architect. The Board's enforcement staff disseminated various Board publications such as the: *Consumer's Guide to Hiring an Architect*, *Consumer Tips for Design Projects*, and other consumer related materials. The meeting was a collaborative effort with the Contractors State License Board.

Regulatory Proposals

CCR Sections 110 (Substantial Relationship Criteria) and 110. (Criteria for Rehabilitation)
The Board approved proposed regulatory language to amend CCR sections 110 and 110.1 at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the Board's regulatory proposal for CCR sections 110 and 110.1:

| | |
|-------------------|---|
| February 27, 2019 | Proposed regulatory language approved by the Board |
| March 5, 2019 | Proposed regulation submitted to DCA Legal for prereview |
| March 7, 2019 | DCA Legal concluded prereview |
| March 8, 2019 | Proposed regulation submitted to DCA Legal for initial analysis |

CCR section 152.5 (Contest of Citations, Informal Conference) - Staff developed proposed regulatory language to amend CCR section 152.5 to allow the EO to delegate to a designee, such as the Assistant Executive Officer or the Enforcement Program Manager, the authority to hold an informal conference with a cited person and make a decision to affirm, modify, or dismiss a citation. The proposed regulatory language also contains additional revisions to CCR section 152.5, including: changing the deadline for requesting an informal conference for consistency with the deadline for requesting a formal administrative hearing; authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause; and clarifying that the decision to affirm, modify, or dismiss a citation is made following (rather than at the conclusion of) an informal conference, and a copy of the decision will be transmitted to the cited person within 30 days after the conference. Staff submitted this language for inclusion in Senate Bill (SB) 608, the Board's sunset bill, rather than proceeding with regulations.

CCR section 154 (Disciplinary Guidelines) - The Board's 2013 and 2014 Strategic Plans included an objective to review and update the Board's *Disciplinary Guidelines*. The REC reviewed recommended updates to the Board's *Disciplinary Guidelines* in 2013 and 2014. Additionally, at the request of the REC, staff consulted with a representative of AIACC to address a proposed modification to the "Obey All Laws" condition of probation. The Board approved the proposed regulatory language to amend CCR section 154 at its June 10, 2015 meeting and delegated the authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes, if needed.

At its March 1, 2018 meeting, the Board reviewed and approved the proposed regulatory changes to the *Disciplinary Guidelines* and CCR section 154 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of AB 2138 as well as proposed changes to CCR sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation) including two options. The Board adopted the proposed recommended changes for CCR section 110 and option 1 of section 110.1 and approved the revised *Disciplinary Guidelines* at its February 27, 2019 meeting. On March 8, 2019, the proposed regulation was submitted to DCA Legal for an initial analysis as part of the regulatory proposal process. Staff is proceeding with the regulatory proposal process and in August 2019 the regulatory change package will be submitted to DCA Legal for pre-review.

Regulatory and Enforcement Committee (REC) The REC is scheduled to meet on August 1, 2019, in Sacramento. At this meeting, the REC will begin work on its assigned 2019-2021 Strategic Plan objectives.

Written Contract (BPC section 5536.22) The Board previously approved a legislative proposal to amend BPC section 5536.22 sought to clarify that the following elements are needed in architects' written contracts with clients for professional services: 1) a description of the project; 2) the project address; and 3) a description of the procedure to accommodate contract changes. The Senate Business, Professions and Economic Development Committee (BP&ED) staff determined that the proposal was substantive and, as such, would need to be included in another bill. The Board subsequently approved a revision to one suggested amendment, as well as an exemption from the written contract requirements for public contracts.

The Board's proposal to amend BPC section 5536.22 was presented to the Legislature for consideration via the "New Issues" section of the Sunset Review Report, and the proposed changes are included in SB 608.

Landscape Architects Technical Committee

LATC ADMINISTRATIVE/MANAGEMENT

Business Modernization Refer to section under Board's Administrative/Management.

Committee The LATC met on May 29, 2019 in Campbell, California. The next meeting is planned for November 8 in Sacramento.

Andrew Bowden's term expired on June 1, 2019, and he is serving in his one-year grace period.

Committee member mandatory trainings must be completed as follows:

- Ethics Orientation – completed within the first six months of appointment and repeat every two years throughout a member's term
- Sexual Harassment Prevention – completed within the first six months of appointment and every odd year throughout a member's term. (Note: 2019 is a mandatory year)
- Board Member Orientation – completed within one year of a member's appointment and reappointment
- Defensive Driver – once every four years

Social Media The LATC maintains a Twitter account that currently has 169 followers. This account largely permits the LATC to have active social media participation with the public and professionals.

Website The Interim Credit Card Renewal was launched on April 23, 2019 and can be found on the LATC's homepage and is included with each license renewal notice.

In June, LATC staff worked with SOLID to develop a strategy to create an online tutorial to assist candidates navigate through the process of becoming a licensed landscape architect. A content outline was created, from which staff and the DCA Public Information Office (PIO) will produce a web-based candidate tutorial for the LATC homepage, schools, and other outreach efforts. Staff is currently developing further detail to the content outline for clarity and will provide it to PIO in August.

LATC EXAMINATION PROGRAM

California Supplemental Examination (CSE) Staff worked with OPES to develop a new Intra-Departmental Contract for FY 19/20 that was approved by the LATC at their meeting on February 8, 2019.

OPES provides the LATC with Occupational Analysis (OA) and examination development services. BPC section 139 requires that an OA be conducted every five to seven years. An OA was completed by OPES for the LATC in 2014. The Test Plan developed from

the 2014 OA is being used during content development of the CSE. The CSE development is based on an ongoing analysis of current CSE performance and evaluation of examination development needs. Staff recruits subject matter experts (SME) to participate in examination development workshops to focus on item writing and examination construction.

BPC section 139 also requires the Board to report on its licensure examination program to the Legislature each fiscal year. On July 26, 2019, LATC staff provided the required data to OPES for inclusion in DCA's Annual Report.

CSE Results The pass rates for the CSE taken by candidates during FY 2019/20 (as of July 31, 2019) and prior FYs are shown in the following tables:

**FY 2019/20 CSE
(as of July 31, 2019)**

| EXAMINATIONS ADMINISTERED | CANDIDATES PASSED | | CANDIDATES FAILED | |
|---------------------------|-------------------|---------|-------------------|---------|
| | Total | Percent | Total | Percent |
| 22 | 17 | 77% | 5 | 23% |

FY 2018/19 CSE

| EXAMINATIONS ADMINISTERED | CANDIDATES PASSED | | CANDIDATES FAILED | |
|---------------------------|-------------------|---------|-------------------|---------|
| | Total | Percent | Total | Percent |
| 216 | 173 | 80% | 43 | 20% |

FY 2017/18 CSE

| EXAMINATIONS ADMINISTERED | CANDIDATES PASSED | | CANDIDATES FAILED | |
|---------------------------|-------------------|---------|-------------------|---------|
| | Total | Percent | Total | Percent |
| 181 | 107 | 55% | 89 | 45% |

Landscape Architect Registration Examination (LARE) A LARE administration was held April 1-13, 2019. Examination results for all LARE administrations are released by the Council of Landscape Architectural Registration Boards (CLARB) within six weeks of the last day of administration. On May 16, 2019, LATC staff issued notifications to all California candidates who completed the LARE during the April administration to advise of their eligibility to sit for the CSE. The next LARE administration will be held August 5-17, 2019, and the application deadline was June 21, 2019.

The pass rates for LARE sections taken by California candidates during the April 1-13, 2019 administration are shown below:

| SECTION | NUMBER OF SECTIONS | TOTAL PASSED | | TOTAL FAILED | |
|-------------------------------------|--------------------|-----------------|--------|-----------------|--------|
| | | No. of Sections | Passed | No. of Sections | Failed |
| Project and Construction Management | 59 | 45 | 76% | 14 | 24% |
| Inventory and Analysis | 64 | 36 | 56% | 28 | 44% |
| Design | 54 | 30 | 56% | 24 | 44% |
| Grading, Drainage and Construction | 55 | 32 | 58% | 23 | 42% |

National pass rates for LARE sections taken during the April 1-13, 2019 administration are shown below:

| SECTION | CALIFORNIA | | NATIONAL | | DIFFERENCE |
|-------------------------------------|------------|--------|----------|--------|------------|
| | Total | Passed | Total | Passed | |
| Project and Construction Management | 59 | 76% | 406 | 71% | 5% |
| Inventory and Analysis | 64 | 56% | 403 | 71% | -15% |
| Design | 54 | 56% | 423 | 66% | -10% |
| Grading, Drainage and Construction | 55 | 58% | 437 | 68% | -10% |

National pass rates for LARE sections taken in 2018 are shown in the following table:

| SECTION | CALIFORNIA | | NATIONAL | | DIFFERENCE |
|-------------------------------------|------------|--------|----------|--------|------------|
| | Total | Passed | Total | Passed | |
| Project and Construction Management | 220 | 66% | 1,187 | 71% | -5% |
| Inventory and Analysis | 200 | 62% | 1,172 | 68% | -6% |
| Design | 181 | 62% | 1,169 | 64% | -2% |
| Grading, Drainage and Construction | 191 | 69% | 1,156 | 69% | 0% |

Outreach On November 12, 2019 LATC staff will provide an outreach presentation to students enrolled in a senior level professional practice and construction documentation course at UC Davis. The presentation will include an overview of the LATC's mandate, the Landscape Architects Practice Act, the importance of licensure, the examination process, and the various education and training pathways to licensure.

Regulatory Proposals *CCR sections 2615 (Form of Examinations) and 2620 (Education and Training Credits)* At its meeting on February 10, 2015, LATC directed staff to draft proposed regulatory language to specifically state that California allows reciprocity to individuals who are licensed in another jurisdiction, have 10 years of practice experience, and have passed the CSE. At the LATC meeting on November 17, 2015, the Committee approved proposed amendments to CCR section 2615(c)(1) and the Board approved the regulatory changes at its meeting on December 10, 2015.

The LATC received extensive input during the public comment period expressing concern about the proposed length of post-licensure experience (at least 10 years, within the past 15 years) to be required of reciprocity candidates who do not meet California's educational requirements (specifically, a degree in landscape architecture). At its November 4, 2016 meeting, LATC reviewed and discussed the public comments, heard from several members of the audience, and directed staff to provide additional research and possible options for its next meeting in January 2017. At its January 17, 2017 meeting, the Committee directed staff to draft proposed regulatory language allowing reciprocity licensure to applicants licensed to practice landscape architecture by any US jurisdiction, Canadian province, or Puerto Rico, upon passing the CSE. Staff consulted with legal counsel to draft new, proposed regulatory language in accordance with the Committee's direction. Staff was also advised that it would be more efficient to begin a new regulatory proposal for this new language in lieu of continuing with the existing proposal. Pursuant to Gov. section 11346.4, the one-year deadline to finalize the existing regulatory proposal was August 12, 2017, which did not allow sufficient time to complete the required review/approval process through the control agencies.

At its April 18, 2017 meeting, the Committee approved the new proposed regulatory language to amend CCR section 2615(c)(1) and recommended that the Board authorize LATC to proceed with the regulatory change. The LATC's recommendation was considered by the Board at its June 15, 2017, meeting. Following discussion, the Board voted to reject the proposed regulatory language. The Board directed staff to prepare a

proposal that addresses both the LATC's initial and reciprocal licensure requirements, and that closely aligns with the Board's current licensure requirements. The Board requested that the LATC's proposal should be presented to the Board at its next meeting.

At the July 13, 2017 meeting, the LATC reviewed proposed language to amend CCR section 2620 (Education and Training Credits) composed by staff and DCA Legal. This proposed language reflects the Board's licensing provisions by granting credit for related and non-related degrees while also adding an experience-only pathway. The LATC voted to recommend to the Board the approval of amendments to CCR section 2620. Upon the Board's review of amendments for CCR section 2620 during its meeting on December 7, 2017, the Board voted to approve the language. As initial licensing provisions and reciprocity provisions are closely tied, the LATC voted on July 13, 2017, to recommend to the Board that reciprocity requirements align with the final, amended provisions to CCR section 2620.

It was found that minor changes are necessary for consistency with the proposed amendments to CCR section 2620. Specifically, these changes will replace the term "Board approved degree" with "degree from an accredited program" and update a reference to CCR section 2620(a)(7). This new language was presented to the LATC for review and possible approval at their meeting on May 4, 2018. During this meeting, the Committee expressed concern that the Certification of Experience form may not adequately structure the experience a candidate gains, especially as it would pertain to the proposed experience-only pathway. Following discussion, the Committee directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present findings at the next Committee meeting.

Subsequent to the Committee meeting on May 4, 2018, staff gathered research from other licensing jurisdictions who have detailed experience criteria on their experience verification forms as well as gathered data for California licensees and active candidates who qualify for licensure with one-year of education credit and five years of experience inclusive of examination pass rates, the types of experience gained, and whether enforcement actions were taken. The findings of staff research were presented to the LATC during its meeting on July 20, 2018; at which time the Committee granted approval to staff to move forward with the combined rulemaking file for CCR sections 2615 and 2620. The Board approved the LATC's proposed regulatory language at its meeting on September 12, 2018. Staff has submitted the proposed regulatory package to DCA for initial analysis, prior to publicly noticing with the OAL.

Following is a chronology, to date, of the processing of LATC's regulatory proposal for CCR sections 2615 and 2620:

| | |
|--------------------|--|
| November 17, 2015 | Proposed regulatory language approved by the LATC |
| December 10, 2015 | Proposed regulatory language approved by the Board |
| August 2, 2016 | Notice of Proposed Changes in the Regulations submitted to OAL |
| August 12, 2016 | Notice of Proposed Changes in the Regulations published by OAL |
| September 27, 2016 | Public hearing, public comments received during 45-day period |
| April 18, 2017 | LATC voted to withdraw regulatory proposal and approved new proposed regulatory language |

| | |
|--------------------|---|
| June 15, 2017 | Board requested LATC prepare an alternate proposal that refines both initial and reciprocal licensure requirements to be more closely related to those of the Board's |
| July 13, 2017 | LATC voted to recommend to the Board that reciprocity requirements align with initial licensure requirements once they are determined by the Education/Experience Subcommittee and approved by the LATC and the Board at subsequent meetings |
| October 3, 2017 | The Education/Experience Subcommittee met and recommended expanded initial licensure pathways (and their respective education/ experience credit allocations) as amendments to CCR section 2620 for the LATC's consideration |
| November 2, 2017 | LATC met to review the Education/Experience Subcommittee's recommendations and voted to recommend that the Board approve proposed amendments to CCR section 2620 to expand initial licensure pathways |
| December 7, 2017 | Board reviewed and approved the LATC's proposed amendments to CCR section 2620 |
| May 4, 2018 | LATC reviewed revised proposed regulatory language, to amend CCR 2615 and 2620, and directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present findings at a future Committee meeting |
| July 20, 2018 | LATC voted to recommend to the Board to proceed with the combined rulemaking file for CCR sections 2615 and 2620 |
| September 12, 2018 | Proposed regulatory language approved by Board |
| November 1, 2018 | Staff preparing regulatory package for DCA Legal review |
| February 7, 2019 | Proposed regulation submitted to DCA Legal for prereview |
| March 21, 2019 | DCA Legal concluded first round of prereview and returned regulation to staff |
| April 16, 2019 | Proposed regulation returned to DCA Legal for additional prereview |
| June 5, 2019 | DCA Legal concluded prereview |
| June 6, 2019 | Proposed regulation submitted to DCA Legal for initial analysis |

CCR section 2620.5 (Requirements for an Approved Extension Certificate Program)
LATC established the original requirements for an approved extension certificate program based on university accreditation standards from the Landscape Architectural Accreditation Board (LAAB). These requirements are outlined in CCR section 2620.5. In 2009, LAAB implemented changes to their university accreditation standards. Prompted by the changes made by LAAB, LATC drafted updated requirements for an approved extension certificate program and recommended that the Board authorize LATC to proceed with a regulatory change. At the December 15–16, 2010 Board meeting, the Board approved the regulatory change and delegated authority to the EO to adopt the regulations to amend CCR section 2620.5 provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes to the language, if needed. The regulatory proposal to amend CCR section 2620.5 was published by the OAL on June 22, 2012.

In 2012, the LATC appointed the University of California Extension Certificate Program Task Force, which was charged with developing procedures for the review of the extension certificate programs and conducting reviews of the programs utilizing the new procedures. As a result of these meetings, the Task Force recommended additional modifications to CCR section 2620.5 to further update the regulatory language with LAAB guidelines and LATC goals. At the November 14, 2012 LATC meeting, LATC approved the Task Force's recommended modifications to CCR section 2620.5, with an additional edit. The Board approved adoption of the modified language for CCR section 2620.5 at their March 7, 2013 meeting.

On July 17, 2013, a Decision of Disapproval of Regulatory Action was issued by OAL. The disapproval was based on OAL's determination that the regulatory package did not meet the necessity standard of the Gov. section 11349.1, subdivision (a)(1). Gov. section 11349(a) defines "necessity" as demonstrating the need for the regulatory change through evidence not limited to facts, studies, and expert opinion.

On December 8, 2014, staff was advised by LAAB that the accreditation standards are scheduled to be reviewed and updated beginning with draft proposals in the spring of 2015. LAAB anticipated adopting new standards in early 2016.

Proposed regulatory language was presented to the LATC at its February 10–11, 2015 meeting. At this meeting, the Committee approved the appointment of a new working group to assist staff in substantiating recommended standards and procedures in order to obtain OAL approval.

On June 5, 2015, LAAB confirmed that they are in the process of updating their Standards and Procedures for the Accreditation of Landscape Architecture Programs.

LAAB implemented its new Accreditation Standards and Procedures in March 2016, making significant changes to the curriculum requirements beginning in 2017. Staff recommended that LATC review the LAAB Accreditation Standards and Procedures

At the April 18, 2017 LATC meeting, the Committee heard comments from Mses. Landregan and Anderson, president-elect of the Council of Landscape Architectural Registration Boards, that offered insight on how LATC could incorporate LAAB accreditation standards and continue to approve University of California Extension Certificate programs. In addition, the LATC was presented with several written public comments addressing the University of California Extension Certificate programs.

At the July 20, 2018 LATC meeting, the Committee reviewed the proposed language to amend CCR section 2620.5 that was rejected by OAL on July 17, 2013. Following discussion, the Committee directed staff to explore options to engage LAAB as well as research private entities regarding the accreditation of extension certificate programs. The Committee requested that staff present their research findings for consideration at the next meeting on December 6-7, 2018.

At the December 6, 2018 LATC meeting, the Committee discussed opportunities to address the following in regulation: 1) extension certificate program approval, expiration, reauthorization, and extensions of said approval; 2) possible provisions for site reviews; and 3) the information that shall be provided by the extension certificate program to

evaluate the program's compliance with the regulation. Following discussion, the Committee directed staff to form a subcommittee comprised of Marq Truscott and Ms. Landregan to work with staff to recommend regulatory changes for LATC's consideration at a later meeting date.

On January 17, 2019, staff held a conference call with the subcommittee where together they developed recommended changes to section 2620.5 and the review/approval procedures for LATC's consideration. At the February 8, 2019 LATC meeting, the Committee reviewed the subcommittee's recommendations and directed staff to prepare a regulatory proposal to amend CCR section 2620.5 for the LATC's consideration at its next meeting. At its May 29, 2019 meeting, the LATC voted to recommend to the Board approval of the proposed regulatory language to amend CCR section 2620.5. The Board approved the proposal at its meeting on June 12, 2019 and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of LATC's regulatory proposal for CCR section 2620.5:

| | |
|-------------------|---|
| November 22, 2010 | Proposed regulatory language approved by LATC |
| December 15, 2010 | Proposed regulatory language approved by Board |
| June 22, 2012 | Notice of Proposed Changes in the Regulations published by OAL (Notice re-published to allow time to notify interested parties) |
| August 6, 2012 | Public hearing, no public comments received |
| November 30, 2012 | 40-Day Notice of Availability of Modified Language posted on website |
| January 9, 2013 | Written comment (one) received during 40-day period |
| January 24, 2013 | Modified language to accommodate public comment approved by LATC |
| February 15, 2013 | Final rulemaking file submitted to DCA's Legal Office and Division of Legislative and Policy Review |
| March 7, 2013 | Final approval of modified language by Board |
| May 31, 2013 | Final rulemaking file submitted to OAL for approval |
| July 17, 2013 | Decision of Disapproval of Regulatory Action issued by OAL |
| August 20, 2013 | LATC voted not to pursue a resubmission of rulemaking file to OAL |
| February 21, 2014 | Staff worked with Task Force Chair to draft justifications for proposed changes |
| December 8, 2014 | LAAB reported that accreditation standards are scheduled to be reviewed and updated in 2015 |
| February 10, 2015 | LATC approved the appointment of a new working group to assist staff |
| October 8, 2015 | LATC received LAAB's suggested revisions to curriculum requirements |
| March 2016 | LAAB implemented its new Accreditation Standards and Procedures |
| April 18, 2017 | LATC directed the formation of a subcommittee to recommend regulatory changes for LATC's consideration |

| | |
|------------------|--|
| March 2018 | LATC staff consulted with legal counsel regarding previously proposed amendments to CCR 2620.5 |
| July 20, 2018 | LATC directed staff to explore options to engage LAAB and private entities in the approval process of extension certificate programs |
| December 6, 2018 | LATC directed the formation of a two-person subcommittee to recommend regulatory changes for LATC's consideration |
| January 17, 2019 | LATC staff held a conference call with the subcommittee where together they developed recommended changes for LATC's consideration at its February 8, 2019 meeting |
| February 8, 2019 | LATC directed staff to prepare a regulatory proposal to amend CCR 2620.5 for the LATC's consideration at its May 23, 2019 meeting |
| May 29, 2019 | Proposed regulatory language approved by LATC |
| June 12, 2019 | Proposed regulatory language approved by Board |
| July 31, 2019 | Proposed regulation submitted to DCA Legal for prereview |

CCR Sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) At its meeting on February 8, 2019, LATC recommended to the Board approval of proposed regulatory language to amend CCR sections 2655 and 2656. The Board approved the proposed regulatory language at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the LATC's regulatory proposal for CCR sections 2655 and 2656:

| | |
|-------------------|---|
| February 8, 2019 | Proposed regulatory language approved by LATC |
| February 27, 2019 | Proposed regulatory language approved by the Board |
| March 7, 2018 | Proposed regulation submitted to DCA Legal for prereview |
| March 8, 2018 | DCA Legal concluded prereview |
| March 12, 2018 | Proposed regulation submitted to DCA Legal for initial analysis |

LATC ENFORCEMENT PROGRAM

Regulatory Proposal *CCR section 2680 (Disciplinary Guidelines)* As part of the Strategic Plan established by LATC at the January 2013 meeting, LATC set an objective of collaborating with the Board in order to review and update LATC's *Disciplinary Guidelines*. At its December 2014 meeting, the Board approved the proposed updates to their *Disciplinary Guidelines* and authorized staff to proceed with the required regulatory change in order to incorporate the revised *Disciplinary Guidelines* by reference. At its February 10, 2015 meeting, LATC approved proposed revisions to its *Disciplinary Guidelines* based on the recent Board approval for their *Guidelines*. Staff provided the revised *Disciplinary Guidelines* to the new Deputy Attorney General Liaison for review. He suggested several amendments, which staff added to the *Guidelines*. The amended *Disciplinary Guidelines* and proposed regulatory package were approved by LATC at its August 6, 2015 meeting and by the Board at their September 10, 2015 meeting.

On October 21, 2015, staff sent DCA Legal Counsel suggested edits to the Optional Conditions section in the *Disciplinary Guidelines* for review. Legal Counsel notified staff on November 12, 2015, that the edited portions were sufficient and substantive, and would require re-approval by the Board. At its December 10, 2015, meeting, the Board approved the revised *Disciplinary Guidelines* and the proposed regulation to amend CCR § 2680 and delegated the authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes to the language, if needed. Staff prepared the proposed regulatory package for Legal Counsel's review and approval on March 15, 2016. On April 8, 2016, Legal Counsel advised staff that further substantive changes were necessary prior to submission to OAL. The additional revisions to the *Guidelines* and the proposed regulatory language to amend CCR section 154 were approved by the Board at its December 15, 2016 meeting. Staff updated its *Guidelines* to include the approved revisions that are appropriate to the LATC. On July 13, 2017, the Committee approved the revised *Guidelines* and recommended they be presented to the Board for approval.

On September 5, 2017, Legal Counsel advised LATC staff that additional substantive changes to LATC's *Guidelines* and the proposed language to amend CCR section 2680 were necessary. These changes were communicated by Legal Counsel during the Board's September 7, 2017 meeting. The Board approved the revisions to LATC's *Guidelines*, including the necessary changes identified by Legal Counsel, as well as proposed language to amend CCR section 2680. Following the meeting, Board staff prepared additional, recommended revisions to the Board's *Guidelines* and the proposed language to amend CCR section 154 in response to Legal Counsel's concerns and presented those revisions to the Board for review and approval at its December 7, 2017 meeting. At the meeting, the Board accepted the additional revisions to the Board's *Guidelines* and directed Legal Counsel and staff to conduct further research to determine if the Board has the statutory authority to impose fines through the disciplinary process and whether it should be referenced in the *Guidelines*. At its March 1, 2018 meeting, the Board was presented with and approved the additional edits to its *Disciplinary Guidelines* with no changes and authorized staff to proceed with a regulatory amendment. Following the Board's approval of its *Guidelines*, LATC staff incorporated the changes made to the Board's *Guidelines* that were relevant to the LATC's *Guidelines*. On May 4, 2018, the Committee reviewed and approved the revised *Guidelines* and recommended they be presented to the Board for approval.

At its June 13, 2018 meeting, the Board reviewed and approved the proposed changes to the LATC's *Disciplinary Guidelines* and CCR section 2680 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of AB 2138 as well as proposed changes to CCR sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) including two options. On February 8, 2019, the Committee made a recommendation to the Board to adopt the proposed regulatory language for section 2655 and option 1 for section 2656 and approve the revised *Disciplinary Guidelines*. The Board approved the Committee's recommendation at its February 27, 2019 meeting. Staff is proceeding with the regulatory

proposal process and on July 30, 2019 the regulatory change package was submitted to DCA Legal for pre-review.

Regulatory Proposal CCR section 2671 (*Public Presentments and Advertising Requirements*) As part of the Strategic Plan established by LATC at the January 2013 meeting, LATC set an objective of researching the feasibility of requiring a license number on all correspondence and advertisement platforms to inform and protect consumers.

LATC enforcement staff reviewed several non-healing arts board's and bureau's Practice Acts to identify language, if applicable, requiring license numbers to be included on all advertisements to determine if similar language could be added to LATC's California Code of Regulations (CCR) section 2671 (Public Presentments and Advertising Requirements). Staff found that the Bureau of Security and Investigative Services and Contractors State License Board Practice Acts require their licensees to include license numbers on all forms of advertisements, as well as the Regulations Relating to the Practices of Geology and Geophysics for the Board for Professional Engineers, Land Surveyors, and Geologists which also requires licensees include license numbers on all advertisements for geologic or geophysical services.

Currently, CCR section 2671 requires that a landscape architect only include their name and the words "landscape architect" in all forms of advertising or public presentments. In an effort to better inform and protect California consumers, the proposed changes of the LATC's current advertising requirements will expand to include license numbers in all forms of advertising.

Proposed language to amend CCR section 2671 was presented to the Committee and on May 29, 2019, where the Committee made a recommendation to the Board to adopt the proposed regulatory language. The Board approved the Committee's recommendation at its June 12, 2019 meeting. Staff proceeded with the regulatory proposal process and on July 9, 2019 the regulatory change package was submitted to DCA Legal for prereview.

Enforcement Actions

Cannistraci, Danny (Stockton) The Board issued a one-count citation that included a \$1,000 administrative fine to Danny Cannistraci, dba Cannistraci Landscape Design, an unlicensed individual, for alleged violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice – Sanctions). The action alleged that Cannistraci's company website, cannislands.com, is advertised as a "Landscape Architecture and Maintenance" company without Cannistraci being licensed as a landscape architect. The citation became final on May 6, 2019.

| <u>Enforcement Statistics</u> | <u>Current Quarter</u> May-Jul 2019 | <u>Prior Quarter</u> Feb-Apr 2019 | <u>FYTD</u> 2019/20 | <u>5-FY Avg</u> 2014/15- 2018/19 |
|-------------------------------|--|--------------------------------------|------------------------|--|
| Complaints | | | | |
| Received/Opened | 10 (0) | 13 (0) | 3 (0) | 30 (0) |
| Closed: | 22 | 9 | 5 | 33 |
| Average Days to Close: | 98 days | 97 days | 93 days | 208 days |
| Pending: | 9* | 15* | 6* | 13 |

| Average Age (Pending): | 99 days* | 105 days* | 111 days* | 161 days |
|-------------------------------------|----------|-----------|-----------|----------|
| Citations | | | | |
| Issued: | 1 | 0 | 1* | 3 |
| Pending: | 0* | 1* | 0* | 1 |
| Pending AG: † | 0* | 0* | 0* | 0 |
| Final: | 1 | 1 | 0 | 3 |
| Disciplinary Actions | | | | |
| Pending AG: | 0* | 0* | 0* | 1 |
| Pending DA: | 0* | 0* | 0* | 0 |
| Final: | 0 | 0 | 0 | 1 |
| Settlement Reports (§5678)** | | | | |
| Received/Opened: | 0 | 1 | 0 | 3 |
| Closed: | 2 | 0 | 0 | 2 |
| Pending: | 0* | 2* | 0* | 2 |

* Calculated as a monthly average of pending cases.

** Also included within "Complaints" information.

† Also included within "Pending Citations."

AGENDA ITEM K.1: ASSEMBLY BILL (AB) 476 (B. RUBIO) DEPARTMENT OF CONSUMER AFFAIRS: TASK FORCE: FOREIGN-TRAINED PROFESSIONALS

Status: Assembly Appropriations Committee: Suspense File

Summary

This bill:

1. Requires the Department of Consumer Affairs (DCA) to create a task force to study and report on the licensing of foreign-trained professionals with the goal of integrating these professionals into the state's workforce.
2. Specifies that required findings and recommendations include identification of state and national licensing regulations that potentially pose unnecessary barriers to practice for foreign-trained professionals, corresponding changes to state licensing requirements, and opportunities to advocate for corresponding changes to national licensing requirements.
3. Requires the report to be submitted to the Legislature by January 1, 2021.

Comments:

According to the author, "the biggest barrier that those with foreign degrees face is the accreditation process that regulatory agencies have for licensing professionals with experience or education outside the country."

Candidates for an architect's license who receive credit at a foreign college or university must have an education evaluation service approved by the National Association of Credential Evaluation Services or the National Architectural Accrediting Board.

Architects licensed in a foreign jurisdiction may receive certification from the National Council of Architectural Registration Board through one of three methods. Foreign architects are required to complete the Architect Registration Exam.

DCA estimates implementation costs of \$538,000, which would be funded through pro rata paid by the boards.

Action Requested

None

Attachment(s)

AB 476, introduced February 12, 2019

ASSEMBLY BILL

No. 476

Introduced by Assembly Member Blanca Rubio

February 12, 2019

An act to add Section 110.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 476, as introduced, Blanca Rubio. Department of Consumer Affairs: task force: foreign-trained professionals.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes the Bagley-Keene Open Meeting Act, which requires state boards, commissions, and similar state-created multimember bodies to give public notice of meetings and conduct their meetings in public unless authorized to meet in closed session.

This bill, the California Opportunity Act of 2019, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2021, as specified.

The bill also would require the task force to meet at least once each calendar quarter, as specified, and to hold its meetings in accordance with the Bagley-Keene Open Meeting Act. The bill would require each member of the task force to receive per diem and reimbursement for

expenses incurred, as specified, and would require the task force to solicit input from a variety of government agencies, stakeholders, and the public, including, among others, the Little Hoover Commission and the California Workforce Development Board.

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

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

1 SECTION 1. This act shall be known as the California
2 Opportunity Act of 2019.

3 SEC. 2. Section 110.5 is added to the Business and Professions
4 Code, to read:

5 110.5. (a) The Department of Consumer Affairs shall create
6 a task force to study, and write the report described in subdivision
7 (c) regarding, the licensing of foreign-trained professionals with
8 the goal of integrating foreign-trained professionals into the state's
9 workforce.

10 (b) The task force shall consist of the following 15 members:

11 (1) The Director of Consumer Affairs, or the director's designee,
12 who shall serve as the chair of the task force.

13 (2) One member appointed by the Governor.

14 (3) One member appointed by the President pro Tempore of the
15 Senate.

16 (4) One member appointed by the Speaker of the Assembly.

17 (5) One member of the Regents of the University of California.

18 (6) One member of the Trustees of the California State
19 University.

20 (7) One member of the Board of Governors of the California
21 Community Colleges.

22 (8) Four members appointed by the Governor who are
23 representatives of the private sector from diverse regions in the
24 state.

25 (9) Four members appointed by the Governor who are
26 representatives of nonprofit organizations that serve the immigrant
27 community from diverse regions in the state.

28 (c) (1) The task force shall write a report of its findings and
29 recommendations regarding the licensing of foreign-trained
30 professionals, that include, but are not limited to, the following:

1 (A) Strategies to integrate foreign-trained professionals and
2 methods of implementing those strategies, including those
3 recommended by the Little Hoover Commission in its October
4 2016 report entitled Jobs for Californians: Strategies to Ease
5 Occupational Licensing Barriers (Report #234).

6 (B) Identification of state and national licensing regulations that
7 potentially pose unnecessary barriers to practice for foreign-trained
8 professionals, corresponding changes to state licensing
9 requirements, and opportunities to advocate for corresponding
10 changes to national licensing requirements.

11 (C) Identification of best practices learned from similar efforts
12 to integrate foreign-trained professionals into the workforce in
13 other states.

14 (2) The task force may include in the report guidelines for full
15 licensure and conditional licensing of foreign-trained professionals.

16 (3) The task force may hold hearings and invite testimony from
17 experts and the public to gather information.

18 (d) The task force shall submit the report described in
19 subdivision (c) to the Legislature no later than January 1, 2021,
20 and in compliance with Section 9795 of the Government Code.

21 (e) The following shall also apply:

22 (1) The task force shall meet at least once each calendar quarter.
23 The task force shall meet at least once in northern California, once
24 in central California, and once in southern California to facilitate
25 participation by the public.

26 (2) A majority of the appointed task force shall constitute a
27 quorum. Task force meetings shall be held in accordance with the
28 Bagley-Keene Open Meeting Act (Article 9 (commencing with
29 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
30 the Government Code).

31 (3) (A) Each member shall receive a per diem of one hundred
32 dollars (\$100) for each day actually spent in the discharge of
33 official duties, and shall be reimbursed for traveling and other
34 expenses necessarily incurred in the performance of official duties.

35 (B) Notwithstanding any other law, a public officer or employee
36 shall not receive per diem salary compensation for serving on the
37 task force on any day when the officer or employee also received
38 compensation for their regular public employment.

- 1 (4) The task force shall solicit input from a variety of
- 2 government agencies, stakeholders, and the public, including, but
- 3 not limited to, the following:
- 4 (A) The Little Hoover Commission.
- 5 (B) The California Workforce Development Board.
- 6 (C) The Department of Industrial Relations.
- 7 (D) In- and out-of-state licensing entities.
- 8 (E) Professional associations.
- 9 (F) Labor and workforce organizations.

AGENDA ITEM K.2: AB 613 (LOW, 2019) PROFESSIONS AND VOCATIONS: REGULATORY FEES

Status: Senate Business, Professions and Economic Development Committee: 2 Year Bill

Summary

1. Authorizes a board within the Department of Consumer Affairs (DCA) to increase every four years any authorized fee by an amount not to exceed the increase in the California Consumer Price Index (CPI) for the preceding four years.
2. Specifies the increase is subject to approval of the DCA Director, who shall approve the increase unless any of the following apply:
 - a. The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.
 - b. The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.
 - c. The Director determines the fee increase would be injurious to the public health, safety, or welfare.
3. Specifies the increase is not subject to the Administrative Procedures Act (APA).
4. Defines "fee" as including any fees authorized by a board for regulatory costs, and specifies that "fee" does not include administrative fines, civil penalties, or criminal penalties.

Comments:

According to the author, currently, a board seeking to increase its fees must either seek legislation or go through the full APA. Because both of these processes are cumbersome, the habit of many boards is to delay addressing revenue shortfalls until their special funds are no longer healthy enough to support ongoing operations. By then, the proposed fee adjustment follows such a prolonged period of time that the resulting increase is significant. This creates substantial uncertainty for licensees and causes even the most necessary fee adjustments to become controversial. By allowing boards to easily adjust fees by an amount that simply conforms with CPI, boards are able to make modest, regularly scheduled changes to what they charge licensees, which will promote healthier fund conditions without the need for formal rulemaking.

Action Requested

None. The Board voted to support this bill at the June meeting.

Attachment(s)

AB 613 (Low) as amended February 14, 2019

ASSEMBLY BILL

No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

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

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

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:

3 101.1. (a) Notwithstanding any other law, no more than once
4 every four years, any board listed in Section 101 may increase any
5 fee authorized to be imposed by that board by an amount not to
6 exceed the increase in the California Consumer Price Index, as
7 determined pursuant to Section 2212 of the Revenue and Taxation
8 Code, for the preceding four years in accordance with the
9 following:

10 (1) The board shall provide its calculations and proposed fee,
11 rounded to the nearest whole dollar, to the director and the director
12 shall approve the fee increase unless any of the following apply:

13 (A) The board has unencumbered funds in an amount that is
14 equal to more than the board’s operating budget for the next two
15 fiscal years.

16 (B) The fee would exceed the reasonable regulatory costs to the
17 board in administering the provisions for which the fee is
18 authorized.

19 (C) The director determines that the fee increase would be
20 injurious to the public health, safety, or welfare.

21 (2) The adjustment of fees and publication of the adjusted fee
22 list is not subject to the Administrative Procedure Act (Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2) of the Government Code.

25 (b) For purposes of this section, “fee” includes any fees
26 authorized to be imposed by a board for regulatory costs. “Fee”
27 does not include administrative fines, civil penalties, or criminal
28 penalties.

O

AGENDA ITEM K.3: AB 626 (QUIRK-SILVA) CONFLICTS OF INTEREST

Status: Assembly Floor: Inactive File (2 Year Bill)

Summary

Existing law, Government Code (GC) Section 1090, prohibits elected officers, public officials, and public employees from being financially interested in any contract made by them in their official capacity. This prohibition extends to consultants and contractors hired by the public agency, so that architects, engineers and other design professionals who are hired to work on the preliminary process are not able to bid on or be awarded a contract for the project itself.

This bill:

1. Provides an exemption to the restriction described above for the work of an engineer, geologist, architect, landscape architect, land surveyor or planner in performing services, including master planning, capital improvement planning, entitlement, environmental, assessments, feasibility studies, conceptual analysis, surveying, preliminary design services, preconstruction, or assisting with plans, specifications, or project planning services to any portion or phase of a project when proposing to perform services on any subsequent portion or phase of the project, if the work product for prior phases is readily available.
2. Specifies this exemption does not apply to a design-build contract for a public works project, and that it does not limit the authority of a public agency to establish more restrictive conflict of interest requirements applicable to these services.

Comments:

According to the author, AB 626 seeks to ensure that all phases of all public works projects are delivered by the most qualified engineer or architect, thus delivering for California the safest and most cost-effective project. The bill is co-sponsored by the American Council of Engineering Companies, California and the American Institute of Architects, California. They argue that precluding specific professionals from working on successive phases of a project can force consultants to choose to withhold proposal for early phases of work, resulting in chances that the best solutions or design for a project will be unavailable during the critical early phases of project development.

Under existing law, the Fair political Practices Commission (FPPC) has the authority to commence an administrative or civil enforcement action for a violation of GC Section 1090, and to issue an opinion or advice on whether or not GC Section 1090 precludes a person' activities.

Past legal opinions and case law on this topic have held, for purposes of applying GC Section 1090, the making of a contract goes beyond awarding the contract and includes preliminary discussions, plans, drawings, etc. An individual participating as an advisor during that preliminary process (such as an engineer or architect) is therefore precluded from entering into a contract for the resulting project.

The FPPC has issued more than 300 advice letters on GC Section 1090. In those about whether an individual who performed preliminary services could be eligible for the resulting contract, in some cases they were. It depends on the facts and specifics of each situation. AB 626 would provide clear authority for this type of activity.

AB 626 is opposed by several construction associations. They express a concern that it is unclear how liability would be apportioned, to the extent constructability issues arise. They also note that, under this bill, design professionals could tailor pre-construction plans to help them secure the design work, then as the designer, they could tailor plans to help them secure a position as a construction manager.

Support:

American Council of Engineering Companies, California (co-sponsor)
American Institute of Architects, California (co-sponsor)
Coachella Valley Water District
Structural Engineers Association of California

Opposition:

Associated General Contractors of California
California Association of Sheet Metal & Air Conditioning Contractors, National Association
California Chapters of the National Electrical Contractors Association
California Legislative Conference of Plumbing, Heating and Piping Industry
Construction Employers' Association
Northern California Allied Trades
Southern California Contractors Association
United Contractors
Wall and Ceiling Alliance
Western Wall and Ceiling Contractors Association

Proposed Amendments:

The sponsor has proposed amendments that are not yet in print. The amendments would modify the proposed exemption, to instead provide that the restriction does not apply to a design professional performing services on any portion or phase of a project when proposing to perform services on any subsequent portion or phase of the project, if the design professional's work product on the prior phases is publicly available and the public agency has not delegated its responsibility for approving the contract or terms to the design professional.

The amendments define “design professional” as an individual, firm, partnership, corporation, association, or other legal entity permitted to practice the profession of architecture, engineering, environmental services, geology, geophysics, land surveying, landscape architecture, planning, or program management.

Action Requested

None.

Attachment(s)

AB 626 (Quirk-Silva) as amended May 13, 2019

AMENDED IN ASSEMBLY MAY 13, 2019
AMENDED IN ASSEMBLY MARCH 21, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 626

Introduced by Assembly Member Quirk-Silva

February 15, 2019

An act to amend Section 1091.5 of the Government Code, relating to conflicts of interest.

LEGISLATIVE COUNSEL'S DIGEST

AB 626, as amended, Quirk-Silva. Conflicts of interest.

Existing law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees, from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. Existing law prohibits an officer or employee from being deemed to have an interest in a contract if the person's interest is one of certain types.

This bill would prohibit an officer or employee from being deemed interested in a contract, as described above, if the interest is that of an engineer, geologist, architect, *landscape architect*, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the ~~project~~. *project, if the work product for prior phases is publicly available. This exception to being deemed interested in a contract would not apply to a design-build contract for a public works project. The bill would provide that these provisions do not limit public agencies from establishing*

more restrictive conflict of interest requirements applicable to these services.

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 1091.5 of the Government Code is
2 amended to read:

3 1091.5. (a) An officer or employee shall not be deemed to be
4 interested in a contract if their interest is any of the following:

5 (1) The ownership of less than 3 percent of the shares of a
6 corporation for profit, provided that the total annual income to
7 them from dividends, including the value of stock dividends, from
8 the corporation does not exceed 5 percent of their total annual
9 income, and any other payments made to them by the corporation
10 do not exceed 5 percent of their total annual income.

11 (2) That of an officer in being reimbursed for the officer’s actual
12 and necessary expenses incurred in the performance of official
13 duties.

14 (3) That of a recipient of public services generally provided by
15 the public body or board of which the recipient is a member, on
16 the same terms and conditions as if the recipient were not a member
17 of the body or board.

18 (4) That of a landlord or tenant of the contracting party if the
19 contracting party is the federal government or any federal
20 department or agency, this state or an adjoining state, any
21 department or agency of this state or an adjoining state, any county
22 or city of this state or an adjoining state, or any public corporation
23 or special, judicial, or other public district of this state or an
24 adjoining state unless the subject matter of the contract is the
25 property in which the officer or employee has the interest as
26 landlord or tenant in which event their interest shall be deemed a
27 remote interest within the meaning of, and subject to, the provisions
28 of Section 1091.

29 (5) That of a tenant in a public housing authority created
30 pursuant to Part 2 (commencing with Section 34200) of Division
31 24 of the Health and Safety Code in which the tenant serves as a
32 member of the board of commissioners of the authority or of a
33 community development commission created pursuant to Part 1.7

1 (commencing with Section 34100) of Division 24 of the Health
2 and Safety Code.

3 (6) That of a spouse of an officer or employee of a public agency
4 in their spouse's employment or officeholding if their spouse's
5 employment or officeholding has existed for at least one year prior
6 to their election or appointment.

7 (7) That of a nonsalaried member of a nonprofit corporation,
8 provided that this interest is disclosed to the body or board at the
9 time of the first consideration of the contract, and provided further
10 that this interest is noted in its official records.

11 (8) That of a noncompensated officer of a nonprofit, tax-exempt
12 corporation, which, as one of its primary purposes, supports the
13 functions of the body or board or to which the body or board has
14 a legal obligation to give particular consideration, and provided
15 further that this interest is noted in its official records.

16 For purposes of this paragraph, an officer is "noncompensated"
17 even though the officer receives reimbursement from the nonprofit,
18 tax-exempt corporation for necessary travel and other actual
19 expenses incurred in performing the duties of the office.

20 (9) That of a person receiving salary, per diem, or reimbursement
21 for expenses from a government entity, unless the contract directly
22 involves the department of the government entity that employs the
23 officer or employee, provided that the interest is disclosed to the
24 body or board at the time of consideration of the contract, and
25 provided further that the interest is noted in its official record.

26 (10) That of an attorney of the contracting party or that of an
27 owner, officer, employee, or agent of a firm which renders, or has
28 rendered, service to the contracting party in the capacity of
29 stockbroker, insurance agent, insurance broker, real estate agent,
30 or real estate broker, if these individuals have not received and
31 will not receive remuneration, consideration, or a commission as
32 a result of the contract and if these individuals have an ownership
33 interest of less than 10 percent in the law practice or firm, stock
34 brokerage firm, insurance firm, or real estate firm.

35 (11) Except as provided in subdivision (b), that of an officer or
36 employee of, or a person having less than a 10-percent ownership
37 interest in, a bank, bank holding company, or savings and loan
38 association with which a party to the contract has a relationship
39 of borrower, depositor, debtor, or creditor.

1 (12) That of (A) a bona fide nonprofit, tax-exempt corporation
2 having among its primary purposes the conservation, preservation,
3 or restoration of park and natural lands or historical resources for
4 public benefit, which corporation enters into an agreement with a
5 public agency to provide services related to park and natural lands
6 or historical resources and which services are found by the public
7 agency, prior to entering into the agreement or as part of the
8 agreement, to be necessary to the public interest to plan for,
9 acquire, protect, conserve, improve, or restore park and natural
10 lands or historical resources for public purposes and (B) any officer,
11 director, or employee acting pursuant to the agreement on behalf
12 of the nonprofit corporation. For purposes of this paragraph,
13 “agreement” includes contracts and grants, and “park,” “natural
14 lands,” and “historical resources” shall have the meanings set forth
15 in subdivisions (d), (g), and (i) of Section 5902 of the Public
16 Resources Code. Services to be provided to the public agency may
17 include those studies and related services, acquisitions of property
18 and property interests, and any activities related to those studies
19 and acquisitions necessary for the conservation, preservation,
20 improvement, or restoration of park and natural lands or historical
21 resources.

22 (13) That of an officer, employee, or member of the Board of
23 Directors of the California Housing Finance Agency with respect
24 to a loan product or programs if the officer, employee, or member
25 participated in the planning, discussions, development, or approval
26 of the loan product or program and both of the following two
27 conditions exist:

28 (A) The loan product or program is or may be originated by any
29 lender approved by the agency.

30 (B) The loan product or program is generally available to
31 qualifying borrowers on terms and conditions that are substantially
32 the same for all qualifying borrowers at the time the loan is made.

33 (14) That of a party to a contract for public services entered into
34 by a special district that requires a person to be a landowner or a
35 representative of a landowner to serve on the board of which the
36 officer or employee is a member, on the same terms and conditions
37 as if they were not a member of the body or board. For purposes
38 of this paragraph, “public services” includes the powers and
39 purposes generally provided pursuant to provisions of the Water

1 Code relating to irrigation districts, California water districts, water
2 storage districts, or reclamation districts.

3 (15) (A) That of an engineer, geologist, architect, *landscape*
4 *architect*, land surveyor, or planner in performing *its services*,
5 *including, but not limited to, master planning, capital improvement*
6 *planning, entitlement, environmental, assessments, feasibility*
7 *studies, conceptual analysis, surveying, preliminary design*
8 *services, ~~preconstruction services, preconstruction~~, or assisting*
9 *with plans, specifications, or project planning services on any*
10 *portion or phase of a project when proposing to perform services*
11 *on any subsequent portion or phase of the ~~project.~~ project, if the*
12 *work product for prior phases is publicly available.*

13 (B) *This exception shall not apply to a design-build contract*
14 *for a public works project.*

15 (C) *This exception does not limit the authority of a public agency*
16 *to establish more restrictive conflict of interest requirements*
17 *applicable to these services.*

18 (b) An officer or employee shall not be deemed to be interested
19 in a contract made pursuant to competitive bidding under a
20 procedure established by law if their sole interest is that of an
21 officer, director, or employee of a bank or savings and loan
22 association with which a party to the contract has the relationship
23 of borrower or depositor, debtor or creditor.

AGENDA ITEM K.4: SENATE BILL (SB) 53 (WILK, 2019) OPEN MEETINGS

Status: Assembly Appropriations Committee: Suspense File

Summary

This bill amends the Bagley-Keen Open Meetings Act to require two-member advisory committees of a state body to hold open meetings if at least one member of the advisory committee is a member of the larger state body and the advisory committee is supported by state funds.

Comments:

According to the author, “the ambiguity of Bagley-Keene has for years provided a loophole for state agencies that create two-member committees and claim they are exempt from open meeting requirements as long as they don’t take action on anything.”

Prior, similar legislation was vetoed by Governor Brown. He stated, “I believe strongly in transparency and openness but the more informal deliberation of advisory bodies is best left to current law.”

Action Requested

None.

Attachment(s)

SB 53 (Wilk) as amended March 5, 2019

AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

O

AGENDA ITEM K.5: SB 601 (MORRELL, 2019) STATE AGENCIES: LICENSES: FEE WAIVER

Status: Assembly Appropriations Committee

Summary

This bill:

1. Authorizes any state agency that issues any business license to reduce or waive any fees required for licensure, renewal or reactivation of licensure, or the replacement of a physical license for display if a person or business establishes that they were displaced or is experiencing economic hardship as a result of an emergency or affected by a proclaimed or declared emergency.
2. Defines the following terms:
 - (a) “economic hardship” means the inability to pay living or business expenses.
 - (b) “license” includes, but is not limited to, a certificate, registration, or other require document to engage in business.
3. Further defines the process to be established for a waiver and requires application or a fee waiver to be made within one year of the declaration of emergency.

Comments:

According to the author, “As evidenced by the recent fires that wreaked havoc throughout the state, Californians affected by disasters are severely economically disadvantaged. Anything the state can do to relieve pressure on those affected and ease their transition back to normalcy ought to be of the highest priority.”

As this bill authorizes the waiver, but does to require it, the California Architects Board may need to adopt regulations to authorize the fee waiver.

Action Requested

None. The Board voted to support at the June meeting.

Attachment(s)

SB 601 (Morrell) as amended June 27, 2019

AMENDED IN ASSEMBLY JUNE 27, 2019

AMENDED IN SENATE MARCH 28, 2019

SENATE BILL

No. 601

Introduced by Senator Morrell
(Coauthors: Senators Bates, Borgeas, Dahle, and Nielsen)
(Coauthors: Assembly Members Dahle and Mathis)
(Coauthor: Assembly Member Mathis)

February 22, 2019

An act to add Section 11009.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as amended, Morrell. State agencies: licenses: fee waiver.

Existing law requires various licenses to be obtained by a person before engaging in certain professions or vocations or business activities, including licensure as a healing arts professional by various boards within the Department of Consumer Affairs.

This bill would authorize any state agency that issues any business license to ~~reduce or waive any required fees for licensure, renewal of licensure, or the replacement of a physical license for display if a person or business establishes to the satisfaction of the state agency that the person or business has been displaced or affected by a declared federal emergency or proclaimed state emergency, as defined.~~ *establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.*

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 11009.5 is added to the Government
 2 Code, to read:
 3 11009.5. (a) *For purposes of this section:*
 4 (1) *“Displaced” means a condition in which the person or*
 5 *business is unable to return to the address of record or other*
 6 *address associated with the license before experiencing economic*
 7 *hardship.*
 8 (2) *“Economic hardship” means the inability to pay living or*
 9 *business expenses, unless otherwise defined by a state agency*
 10 *pursuant to subdivision (c).*
 11 (3) *“Emergency” means an emergency as defined in Section*
 12 *8558 or a declared federal emergency.*
 13 (4) *“License” includes, but is not limited to, a certificate,*
 14 *registration, or other required document to engage in business.*
 15 (b) ~~Notwithstanding any other law, a state agency that issues~~
 16 ~~any business license may, within one year of the proclamation of~~
 17 ~~an emergency as defined in Section 8558 or a declared federal~~
 18 ~~emergency, reduce or waive any required fees for licensure,~~
 19 ~~renewal of licensure, or the replacement of a physical license for~~
 20 ~~display if a person or business establishes to the satisfaction of the~~
 21 ~~state agency that the person or business has been displaced or~~
 22 ~~affected by the proclaimed or declared emergency. may establish~~
 23 *a process for a person or business that has been displaced or is*
 24 *experiencing economic hardship as a result of an emergency to*
 25 *submit an application, that the agency may grant, for a reduction*
 26 *or waiver of any fees required by the agency to obtain a license,*
 27 *renew or activate a license, or replace a physical license for*
 28 *display.*
 29 (c) *A fee or waiver process established pursuant to subdivision*
 30 *(b) shall specify, at a minimum, all of the following:*
 31 (1) *The methodology used by the agency for determining whether*
 32 *a person, as a result of an emergency, has been displaced or is*
 33 *experiencing economic hardship.*
 34 (2) *The procedure for applying for a reduction or fee waiver.*

- 1 (3) *That the application shall be made within one year of the*
- 2 *date on which the emergency was proclaimed or declared.*
- 3 ~~(b) For purposes of this section, “license” includes, but is not~~
- 4 ~~limited to, a certificate, registration, or other required document~~
- 5 ~~to engage in business.~~

O

AGENDA ITEM K.6: SB 608 (GLAZER, 2019) ARCHITECTS AND LANDSCAPE ARCHITECTS

Status: Assembly Appropriations Committee: Suspense File

Summary

This bill extends the sunset date for the California Architects Board (Board) and the Landscape Architects Technical Committee (LATC) and makes the following changes:

For the Board:

1. Amends the written contract requirements to require a description of the project, a description of how contract changes will be accommodated, and a notice that architects are licensed by the Board.
2. Exempts services rendered by an architect to a public agency from the written contract requirements.
3. Requires the Board to adopt regulations to establish qualifications for CE courses and course providers by January 1, 2023.
4. Authorizes a CE provider to submit evidence of coursework completion directly to the Board.
5. Beginning January 1, 2021, requires the Board to fingerprint applicants for licensure. ("Applicant" is limited to an initial applicant who has never been registered or licensed by the Board or to an applicant for a new licensure or registration category).
6. Authorizes the Executive Officer (EO) to delegate to another individual the authority to hold an informal office conference with an individual who has received a citation.
7. Provides that if a citation is affirmed or modified following an informal office conference, the cited individual may submit a written request within thirty days for a formal hearing.

For LATC:

1. Beginning January 1, 2021, requires applicants for licensure to be fingerprinted for a background check.
2. Amends the written contract requirements to require a description of the project, a description of the procedure to accommodate contract changes, and a statement identifying the ownership and use of instruments of service prepared by the landscape architect.
3. Provides that contract requirements do not apply if the client states in writing after full disclosure of the requirements that a written contract is not required.
4. Authorizes the EO to approve settlement agreements for the revocation or surrender of a license.

Comments:

The most recent amendments further defined the fingerprint submission requirements and made some technical changes.

Action Requested

None. The Board voted to support the bill at the June meeting.

Attachment(s)

SB 608 (Glazer) as amended July 2, 2019

AMENDED IN ASSEMBLY JULY 2, 2019

AMENDED IN SENATE APRIL 24, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 608

Introduced by Senator Glazer

February 22, 2019

An act to amend Sections 144, 5510, 5517, 5520, 5536, 5536.22, 5552.5, 5600.05, 5616, 5620, 5621, and 5622, of, and to add Sections ~~5526.5~~ 5526.5, 5552.1, and 5620.2 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 608, as amended, Glazer. ~~Architects~~ *Architects and landscape architects.*

(1) Existing law regulating professions and vocations requires certain designated agencies, within the purview of the Department of Consumer Affairs, to require applicants to furnish their fingerprints for purposes of conducting criminal history record checks.

This bill would, beginning on January 1, 2021, add the California Architects Board *and the Landscape Architects Technical Committee* to the listed of designated agencies subject to these provisions. *The bill would also provide that beginning on January 1, 2021, the California Architects Board has the authority to obtain and review criminal offender record information to determine whether an applicant is subject to denial of a license. The bill would require, as a condition of the application for a license or reinstatement thereof, that each applicant furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history check and undergoing a state*

and federal level criminal offender record information search. The bill would require an applicant to certify under penalty of perjury that the applicant's fingerprints have been furnished to the Department of Justice in compliance with this provision and to pay the reasonable regulatory costs for furnishing the fingerprints and conducting the searches. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(2) Existing law, the Architects Practice Act, establishes the California Architects Board consisting of 10 members and sets forth its powers and duties over the licensure and regulation of architects. The act permits the board to appoint a person who is exempt from civil service as its executive officer to exercise duties delegated to the officer by the board. Existing law transfers duties previously within the jurisdiction of the California State Board of Landscape Architects to the California Architects Board. Existing law also creates a Landscape Architects Technical Committee within the jurisdiction of the board and authorizes the committee to assist the board in examining candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of the act. Existing law repeals these provisions on January 1, 2020.

This bill would extend the operation of these provisions until January 1, 2024. The bill would also confer specified powers of the board to its executive officer, or, in the executive officer's absence, to the acting executive officer. These powers would include receiving and filing accusations, issuing notices of hearings, and conducting various other duties in connection with the board's administrative hearing duties. The bill would additionally delegate to the executive officer of the board the board's power to evaluate and determine qualifications and approve applicants for examination and determine eligibility for applicants for reciprocity licenses to waive the written examination.

This bill would also make nonsubstantive changes to those provisions related to the renaming of the "State Board of Architectural Examiners" to the "California Architects Board."

(3) Existing law authorizes boards within the Department of Consumer Affairs, to establish, by regulation, a system for issuing a citation to a licensee in accordance with certain provisions. Under existing law, the system is required to contain, among other elements, information provided to the licensee that if they desire a hearing to contest the finding of a violation, that hearing shall be requested by

written notice to the board within 30 days of the date of issuance of the citation or assessment.

This bill would authorize a cited person subject to the Architects Practice Act, in addition to requesting an administrative hearing as described above, to request an informal conference to review the acts charged in the citation, in accordance with certain procedural requirements and timeframes.

(4) Under existing law, an architect is required to use a written contract when contracting to provide professional services, as specified. Existing law requires that the contract include, among other things, a description of services to be provided and a description of the procedure to be used to accommodate additional services.

This bill would require the written contract to also include a description of the project, a description of the procedure that will be used to accommodate *additional services and* contract changes, the project address, a statement identifying the ownership and use of instruments of service prepared by the architect, and a statement notifying the client that the architect is licensed and regulated by the board located at a specified address. The bill would provide the written contract requirement does not apply to professional services rendered to a public agency when using that agency's written contract.

(5) Existing law requires a landscape architect to use a written contract when contracting to provide professional services. Existing law requires that the contract include, among other things, a description of services to be provided, a description of the procedure to be used to accommodate additional services, and a notice that landscape architects are licensed by the State of California.

This bill would require the written contract to also include a description of the project for which the client is seeking services, a description of the procedure that the landscape architect and the client will use to accommodate contract changes, a statement identifying the ownership and use of instruments of service prepared, and a statement notifying the client that the landscape architect is licensed by the Landscape Architects Technical Committee located at a specified address. The bill would revise and recast related provisions governing written contracts for landscape architects. The bill would provide the written contract requirement does not apply to professional services rendered to a public agency when using that agency's written contract.

(6) Existing law makes it a misdemeanor for a person to advertise or represent that they are a “registered building designer” or registered or otherwise licensed by the state as a building designer.

This bill would delete the above misdemeanor penalty provision prohibiting a person from advertising or representing that they are a “registered building designer” or registered or otherwise licensed by the state as a building designer.

(7) Existing law requires a person licensed to practice architecture to complete, as a condition of license renewal, a specified amount of coursework regarding disability access requirements that depends on the date of renewal. Existing law requires a licensee to comply with specified recordkeeping requirements to that effect.

This bill would revise and recast those requirements to, among other changes, require a licensee to complete 5 hours of coursework that meets certain requirements, and would require the board to promulgate regulations to establish qualifications for courses and course providers by January 1, 2023. The bill would also make a licensee who provides false or misleading information as it relates to completion of coursework requirements subject to an administrative citation or disciplinary action by the board and would make specified changes to the recordkeeping requirements.

(8) 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.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 144 of the Business and Professions Code
- 2 is amended to read:

- 1 144. (a) Notwithstanding any other law, an agency designated
2 in subdivision (b) shall require an applicant to furnish to the agency
3 a full set of fingerprints for purposes of conducting criminal history
4 record checks. Any agency designated in subdivision (b) may
5 obtain and receive, at its discretion, criminal history information
6 from the Department of Justice and the United States Federal
7 Bureau of Investigation.
- 8 (b) Subdivision (a) applies to the following:
- 9 (1) California Board of Accountancy.
 - 10 (2) State Athletic Commission.
 - 11 (3) Board of Behavioral Sciences.
 - 12 (4) Court Reporters Board of California.
 - 13 (5) State Board of Guide Dogs for the Blind.
 - 14 (6) California State Board of Pharmacy.
 - 15 (7) Board of Registered Nursing.
 - 16 (8) Veterinary Medical Board.
 - 17 (9) Board of Vocational Nursing and Psychiatric Technicians.
 - 18 (10) Respiratory Care Board of California.
 - 19 (11) Physical Therapy Board of California.
 - 20 (12) Physician Assistant Committee of the Medical Board of
21 California.
 - 22 (13) Speech-Language Pathology and Audiology and Hearing
23 Aid Dispensers Board.
 - 24 (14) Medical Board of California.
 - 25 (15) State Board of Optometry.
 - 26 (16) Acupuncture Board.
 - 27 (17) Cemetery and Funeral Bureau.
 - 28 (18) Bureau of Security and Investigative Services.
 - 29 (19) Division of Investigation.
 - 30 (20) Board of Psychology.
 - 31 (21) California Board of Occupational Therapy.
 - 32 (22) Structural Pest Control Board.
 - 33 (23) Contractors' State License Board.
 - 34 (24) Naturopathic Medicine Committee.
 - 35 (25) Professional Fiduciaries Bureau.
 - 36 (26) Board for Professional Engineers, Land Surveyors, and
37 Geologists.
 - 38 (27) Bureau of Cannabis Control.
 - 39 (28) California Board of Podiatric Medicine.
 - 40 (29) Osteopathic Medical Board of California.

1 (30) California Architects Board, beginning January 1, 2021.
 2 (31) *Landscape Architects Technical Committee*, beginning
 3 *January 1, 2021*.

4 (c) For purposes of paragraph (26) of subdivision (b), the term
 5 “applicant” shall be limited to an initial applicant who has never
 6 been registered or licensed by the board or to an applicant for a
 7 new licensure or registration category.

8 SEC. 2. Section 5510 of the Business and Professions Code is
 9 amended to read:

10 5510. There is in the Department of Consumer Affairs a
 11 California Architects Board which consists of 10 members.

12 Any reference in law to the California Board of Architectural
 13 Examiners shall mean the California Architects Board.

14 This section shall remain in effect only until January 1, 2024,
 15 and as of that date is repealed. Notwithstanding any other law, the
 16 repeal of this section renders the board subject to review by the
 17 appropriate policy committees of the Legislature.

18 SEC. 3. Section 5517 of the Business and Professions Code is
 19 amended to read:

20 5517. The board may appoint a person exempt from civil
 21 service who shall be designated as an executive officer and who
 22 shall exercise the powers and perform the duties delegated by the
 23 board and vested in the executive officer by this chapter.

24 This section shall remain in effect only until January 1, 2024,
 25 and as of that date is repealed.

26 SEC. 4. Section 5520 of the Business and Professions Code is
 27 amended to read:

28 5520. The board shall adopt a seal for its own use. The seal
 29 used shall have the words, “California Architects Board” inscribed
 30 thereon.

31 The executive officer shall have the care and custody of the seal.

32 SEC. 5. Section 5526.5 is added to the Business and Professions
 33 Code, to read:

34 5526.5. (a) In addition to requesting an administrative hearing
 35 as provided for in paragraph (4) of subdivision (b) of Section 125.9,
 36 the cited person may request an informal conference to review the
 37 acts shared in the citation. The cited person shall make the request
 38 for an informal conference in writing, within 30 days of the date
 39 of issuance of the citation, to the executive officer.

1 (b) The executive officer or their designee shall hold, within 60
2 days from the receipt of the request, an informal conference with
3 the cited person. The executive officer or their designee may extend
4 the 60-day period for good cause.

5 (c) Following the informal conference, the executive officer or
6 their designee may affirm, modify, or dismiss the citation, including
7 any fine that is levied, order of abatement, or order of correction
8 issued. The executive officer or their designee shall state in writing
9 the reasons for the action and transmit a copy of those findings to
10 the cited person within 30 days after the informal conference.

11 (d) If the citation, including any fine that is levied or order of
12 abatement or correction, is affirmed or modified following the
13 informal conference, the respondent may make a request in writing
14 to the executive officer within 30 days of the affirmed or modified
15 citation, for a formal hearing, which shall be conducted as provided
16 for in paragraph (4) of subdivision (b) of Section 125.9.

17 (e) A cited person shall not request an informal conference for
18 a citation which has been affirmed or modified following an
19 informal conference.

20 SEC. 6. Section 5536 of the Business and Professions Code is
21 amended to read:

22 5536. (a) It is a misdemeanor, punishable by a fine of not less
23 than one hundred dollars (\$100) nor more than five thousand
24 dollars (\$5,000), or by imprisonment in a county jail not exceeding
25 one year, or by both that fine and imprisonment, for any person
26 who is not licensed to practice architecture under this chapter to
27 practice architecture in this state, to use any term confusingly
28 similar to the word architect, to use the stamp of a licensed
29 architect, as provided in Section 5536.1, or to advertise or put out
30 any sign, card, or other device that might indicate to the public
31 that the person is an architect, is qualified to engage in the practice
32 of architecture, or is an architectural designer.

33 (b) It is a misdemeanor, punishable as specified in subdivision
34 (a), for any person who is not licensed to practice architecture
35 under this chapter to affix a stamp or seal that bears the legend
36 "State of California" or words or symbols that represent or imply
37 that the person is so licensed by the state to prepare plans,
38 specifications, or instruments of service.

39 SEC. 7. Section 5536.22 of the Business and Professions Code
40 is amended to read:

1 5536.22. (a) An architect shall use a written contract when
2 contracting to provide professional services to a client pursuant to
3 this chapter. That written contract shall be executed by the architect
4 and the client, or the client's representative, prior to the architect
5 commencing work, unless the client knowingly states in writing
6 that work may be commenced before the contract is executed. The
7 written contract shall include, but not be limited to, all of the
8 following items:

9 (1) A description of the project for which the client is seeking
10 services.

11 (2) A description of the services to be provided by the architect
12 to the client.

13 (3) A description of any basis of compensation applicable to
14 the contract and the method of payment agreed upon by both
15 parties.

16 (4) The name, address, and license number of the architect, the
17 name and address of the client, and the project address.

18 (5) A description of the procedure that the architect and the
19 client will use to accommodate *additional services and* contract
20 changes, including, but not limited to, changes in the description
21 of the project, in the description of the services, or in the
22 description of the compensation and method of payment.

23 (6) A description of the procedure to be used by either party to
24 terminate the contract.

25 (7) A statement identifying the ownership and use of instruments
26 of service prepared by the architect.

27 (8) A statement in at least 12-point type that reads: "Architects
28 are licensed and regulated by the California Architects Board
29 located at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834."

30 (b) This section shall not apply to any of the following:

31 (1) Professional services rendered by an architect for which the
32 client will not pay compensation.

33 (2) An arrangement as to the basis for compensation and manner
34 of providing professional services implied by the fact that the
35 architect's services are of the same general kind which the architect
36 has previously rendered to and received payment from the same
37 client.

38 (3) If the client knowingly states in writing after full disclosure
39 of this section that a writing which complies with the requirements
40 of this section is not required.

1 (4) Professional services rendered by an architect to a
2 professional engineer registered to practice engineering under
3 Chapter 7 (commencing with Section 6700), or to a land surveyor
4 licensed under Chapter 15 (commencing with Section 8700).

5 (5) Professional services rendered by an architect to a public
6 agency when using that public agency's written contract.

7 *SEC. 8. Section 5552.1 is added to the Business and Professions*
8 *Code, to read:*

9 *5552.1. (a) Pursuant to Section 144, beginning January 1,*
10 *2021, the board has the authority to obtain and receive criminal*
11 *history information. The information obtained as a result of the*
12 *fingerprinting shall be used in accordance with Section 11105 of*
13 *the Penal Code and to determine whether the applicant is subject*
14 *to denial of a license pursuant to Division 1.5 (commencing with*
15 *Section 475) or Sections 5560 and 5577.*

16 *(b) As a condition of application for a license, each applicant*
17 *shall furnish to the Department of Justice a full set of fingerprints*
18 *for the purpose of conducting a criminal history record check and*
19 *to undergo a state and federal level criminal offender record*
20 *information search conducted through the Department of Justice.*

21 *(c) The board shall request from the Department of Justice*
22 *subsequent arrest notification service, pursuant to Section 11105*
23 *of the Penal Code.*

24 *(d) The applicant shall pay for the reasonable regulatory costs*
25 *for furnishing the fingerprints and conducting the searches.*

26 *(e) The applicant shall certify, under penalty of perjury, when*
27 *applying for a license whether the applicant's fingerprints have*
28 *been furnished to the Department of Justice in compliance with*
29 *this section.*

30 *(f) Failure to comply with the requirements of this section*
31 *renders the application for a license incomplete, and the*
32 *application shall not be considered until the applicant demonstrates*
33 *compliance with all of the requirements of this section.*

34 *(g) Notwithstanding any other law, the results of any criminal*
35 *offender record information request by either state or federal law*
36 *enforcement authorities shall not be released by the board except*
37 *in accordance with state and federal requirements.*

38 *(h) This section shall apply to all applicants subject to this*
39 *chapter and subdivision (i).*

1 (i) As used in this section, the term “applicant” shall be limited
2 to an initial applicant who has never been registered or licensed
3 by the board or to an applicant for a new licensure or registration
4 category.

5 (j) As a condition of petitioning the board for reinstatement of
6 a revoked or surrendered license, an applicant shall comply with
7 subdivision (a).

8 ~~SEC. 8:~~

9 *SEC. 9.* Section 5552.5 of the Business and Professions Code
10 is amended to read:

11 5552.5. The board may, by regulation, implement an
12 architectural *education and training* experience or internship
13 program.

14 ~~SEC. 9:~~

15 *SEC. 10.* Section 5600.05 of the Business and Professions Code
16 is amended to read:

17 5600.05. (a) (1) As a condition of license renewal, a licensee
18 shall complete five hours of coursework pursuant to paragraph
19 (2).

20 (2) Coursework regarding disability access requirements shall
21 include information and practical guidance concerning
22 requirements imposed by the *federal* Americans with Disabilities
23 Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.),
24 state laws that govern access to public facilities, and federal and
25 state regulations adopted pursuant to those laws. Coursework
26 provided pursuant to this paragraph shall be presented by trainers
27 or educators with knowledge and expertise in these requirements.
28 The board shall promulgate regulations to establish qualifications
29 for courses and course providers by January 1, 2023.

30 (b) The board may audit the records of a licensee to verify the
31 completion of the coursework requirements of subdivision (a). A
32 licensee shall maintain records of completion of the required
33 coursework for two years from the date of license renewal,
34 containing the following information: course title, subjects covered,
35 name of provider and trainer or educator, date of completion,
36 number of hours completed, and a statement about the trainer’s or
37 educator’s knowledge and experience background. A licensee shall
38 make those records available to the board for auditing upon request.
39 A licensee who provides false or misleading information as it
40 relates specifically to the requirements of this subdivision shall be

1 subject to an administrative citation, which may include an
2 administrative fine pursuant to Section 125.9, or to disciplinary
3 action by the board.

4 (c) The board shall audit at least 3 percent of the license
5 renewals received each year to verify the completion of the
6 continuing education requirements of this subdivision.

7 (d) A continuing education provider may submit evidence of
8 coursework to the board directly.

9 ~~SEC. 10.~~

10 *SEC. 11.* Section 5616 of the Business and Professions Code
11 is amended to read:

12 5616. (a) A landscape architect shall use a written contract
13 when contracting to provide professional services to a client
14 pursuant to this chapter. The written contract shall be executed by
15 the landscape architect and the client, or their representatives, prior
16 to the landscape architect commencing work, unless the client
17 knowingly states in writing that work may be commenced before
18 the contract is executed. The written contract shall include, but
19 not be limited to, all of the following:

20 (1) A description of the project for which the client is seeking
21 services.

22 (2) A description of the services to be provided by the landscape
23 architect to the client.

24 (3) A description of any basis of compensation applicable to
25 the contract, including the total price that is required to complete
26 the contract, and the method of payment agreed upon by both
27 parties.

28 (4) A statement in at least 12-point type that reads:

29 “Landscape architects are licensed by the Landscape Architects
30 Technical Committee located at 2420 Del Paso Road, Suite 105,
31 Sacramento, CA 95834.”

32 (5) The name, address, and license number of the landscape
33 architect, the name and address of the client, and project address.

34 (6) A description of the procedure that the landscape architect
35 and client will use to accommodate additional services.

36 (7) A description of the procedure to be used by either party to
37 terminate the contract.

38 (8) A description of the procedure that the landscape architect
39 and the client will use to accommodate contract changes, including,
40 but not limited to, changes in the description of the project, in the

1 description of the services, or in the description of the
2 compensation, total price, and method of payment.

3 (9) A statement identifying the ownership and use of instruments
4 of service prepared by the landscape architect.

5 (b) This section shall not apply to any of the following:

6 (1) Professional services rendered by a landscape architect for
7 which the client will not pay compensation.

8 (2) An arrangement as to the basis for compensation and manner
9 of providing professional services implied by the fact that the
10 landscape architect's services are of the same general kind that the
11 landscape architect has previously rendered to, and received
12 payment for from, the same client.

13 (3) If the client states in writing after full disclosure of this
14 section that a written contract is not required.

15 (4) Professional services rendered by a landscape architect to
16 any of the following:

17 (A) A landscape architect licensed under this chapter.

18 (B) An architect licensed under Chapter 3 (commencing with
19 Section 5500).

20 (C) A professional engineer licensed under Chapter 7
21 (commencing with Section 6700).

22 (D) A contractor licensed under Chapter 9 (commencing with
23 Section 7000).

24 (E) A geologist or geophysicist licensed under Chapter 12.5
25 (commencing with Section 7800).

26 (F) A professional land surveyor licensed under Chapter 15
27 (commencing with Section 8700).

28 (G) A manufacturing, mining, public utility, research and
29 development, or other industrial corporation, if the services are
30 provided in connection with, or incidental to, the products, systems,
31 or services of that corporation or its affiliates.

32 (H) A public agency when using that public agency's written
33 contract.

34 (c) As used in this section, "written contract" includes a contract
35 that is in electronic form.

36 ~~SEC. 11.~~

37 *SEC. 12.* Section 5620 of the Business and Professions Code
38 is amended to read:

39 5620. The duties, powers, purposes, responsibilities, and
40 jurisdiction of the California State Board of Landscape Architects

1 that were succeeded to and vested with the Department of
2 Consumer Affairs in accordance with Chapter 908 of the Statutes
3 of 1994 are hereby transferred to the California Architects Board.
4 The Legislature finds that the purpose for the transfer of power is
5 to promote and enhance the efficiency of state government and
6 that assumption of the powers and duties by the California
7 Architects Board shall not be viewed or construed as a precedent
8 for the establishment of state regulation over a profession or
9 vocation that was not previously regulated by a board, as defined
10 in Section 477.

11 (a) There is in the Department of Consumer Affairs a California
12 Architects Board as defined in Article 2 (commencing with Section
13 5510) of Chapter 3 of Division 3.

14 Whenever in this chapter “board” is used, it refers to the
15 California Architects Board.

16 (b) Except as provided herein, the board may delegate its
17 authority under this chapter to the Landscape Architects Technical
18 Committee.

19 (c) After review of proposed regulations, the board may direct
20 the examining committee to notice and conduct hearings to adopt,
21 amend, or repeal regulations pursuant to Section 5630, provided
22 that the board itself shall take final action to adopt, amend, or
23 repeal those regulations.

24 (d) The board shall not delegate its authority to discipline a
25 landscape architect or to take action against a person who has
26 violated this chapter.

27 (e) This section shall remain in effect only until January 1, 2024,
28 and as of that date is repealed.

29 ~~SEC. 12.~~

30 *SEC. 13.* Section 5620.2 is added to the Business and
31 Professions Code, to read:

32 5620.2. (a) The following powers conferred by law upon the
33 board are hereby delegated to and conferred upon the executive
34 officer, or in their absence from the office, to the acting executive
35 officer, as provided below:

36 (1) Receive and file accusations.

37 (2) Issue notices of hearings, statements to respondents, and
38 statements of issues.

39 (3) Receive and file notices of defense.

- 1 (4) Determine the time and place of hearings under Section
- 2 11508 of the Government Code.
- 3 (5) Issue subpoenas and subpoenas duces tecum.
- 4 (6) Set calendar cases for hearing and perform other functions
- 5 necessary to the businesslike dispatch of the board in connection
- 6 with proceedings under Sections 11500 to 11528, inclusive, of the
- 7 Government Code, before hearing those proceedings.
- 8 (7) Approve settlement agreements for the revocation or
- 9 surrender of a license.
- 10 (8) Certification and delivery or mailing of copies of decisions
- 11 under Section 11518 of the Government Code.
- 12 (b) In addition to the powers described in subdivision (a), the
- 13 following powers are also delegated to and conferred upon the
- 14 executive officer, as provided below:
- 15 (1) Evaluate and determine qualifications and approve applicants
- 16 for examination under Section 5650.
- 17 (2) Determine which applicants for reciprocity licenses are
- 18 entitled to waiver of the written examination under Section 5651.
- 19 ~~SEC. 13.~~
- 20 *SEC. 14.* Section 5621 of the Business and Professions Code
- 21 is amended to read:
- 22 5621. (a) There is hereby created within the jurisdiction of the
- 23 board, a Landscape Architects Technical Committee, hereinafter
- 24 referred to in this chapter as the landscape architects committee.
- 25 (b) The landscape architects committee shall consist of five
- 26 members who shall be licensed to practice landscape architecture
- 27 in this state. The Governor shall appoint three of the members.
- 28 The Senate Committee on Rules and the Speaker of the Assembly
- 29 shall appoint one member each.
- 30 (c) The initial members to be appointed by the Governor are as
- 31 follows: one member for a term of one year; one member for a
- 32 term of two years; and one member for a term of three years. The
- 33 Senate Committee on Rules and the Speaker of the Assembly shall
- 34 initially each appoint one member for a term of four years.
- 35 Thereafter, appointments shall be made for four-year terms,
- 36 expiring on June 1 of the fourth year and until the appointment
- 37 and qualification of the member's successor or until one year shall
- 38 have elapsed, whichever first occurs. Vacancies shall be filled for
- 39 the unexpired term.

1 (d) No person shall serve as a member of the landscape
2 architects committee for more than two consecutive terms.

3 (e) This section shall remain in effect only until January 1, 2024,
4 and as of that date is repealed.

5 ~~SEC. 14.~~

6 *SEC. 15.* Section 5622 of the Business and Professions Code
7 is amended to read:

8 5622. (a) The landscape architects committee may assist the
9 board in the examination of candidates for a landscape architect's
10 license and, after investigation, evaluate and make
11 recommendations regarding potential violations of this chapter.

12 (b) The landscape architects committee may investigate, assist,
13 and make recommendations to the board regarding the regulation
14 of landscape architects in this state.

15 (c) The landscape architects committee may perform duties and
16 functions that have been delegated to it by the board pursuant to
17 Section 5620.

18 (d) The landscape architects committee may send a
19 representative to all meetings of the full board to report on the
20 committee's activities.

21 (e) This section shall remain in effect only until January 1, 2024,
22 and as of that date is repealed.

23 *SEC. 16. The Legislature finds and declares that Section 8 of*
24 *this act, which adds Section 5552.1 to the Business and Professions*
25 *Code, imposes a limitation on the public's right of access to the*
26 *meetings of public bodies or the writings of public officials and*
27 *agencies within the meaning of Section 3 of Article I of the*
28 *California Constitution. Pursuant to that constitutional provision,*
29 *the Legislature makes the following findings to demonstrate the*
30 *interest protected by this limitation and the need for protecting*
31 *that interest:*

32 *In order to protect the privacy and personal information of*
33 *applicants, it is necessary that applicant record information be*
34 *kept confidential.*

35 *SEC. 17. No reimbursement is required by this act pursuant*
36 *to Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

- 1 *the Government Code, or changes the definition of a crime within*
- 2 *the meaning of Section 6 of Article XIII B of the California*
- 3 *Constitution.*

O

California ARE 5.0 Pass Rates

Requested Research

- 1. CA NAAB vs. Non-NAAB ARE 5.0 division performance
- 2. CA vs. other jurisdictions NAAB vs. Non-NAAB ARE 5.0 division performance
- 3. CA first time testers vs. retest testers by ARE 5.0 Division
- 4. CA first time NAAB testers vs. NAAB retest testers
- 5. CA first time non-NAAB testers vs. non-NAAB retest testers
- 6. CA vs. other jurisdictions first time NAAB testers vs. NAAB retest testers
- 7. CA vs. other jurisdictions first time non-NAAB testers vs. non-NAAB retest testers

Overall ARE 5.0 Success Rate for California

45.58%

Overall ARE 5.0 Success Rate (excl. CA)

54.76%

Division Pass Rates for California

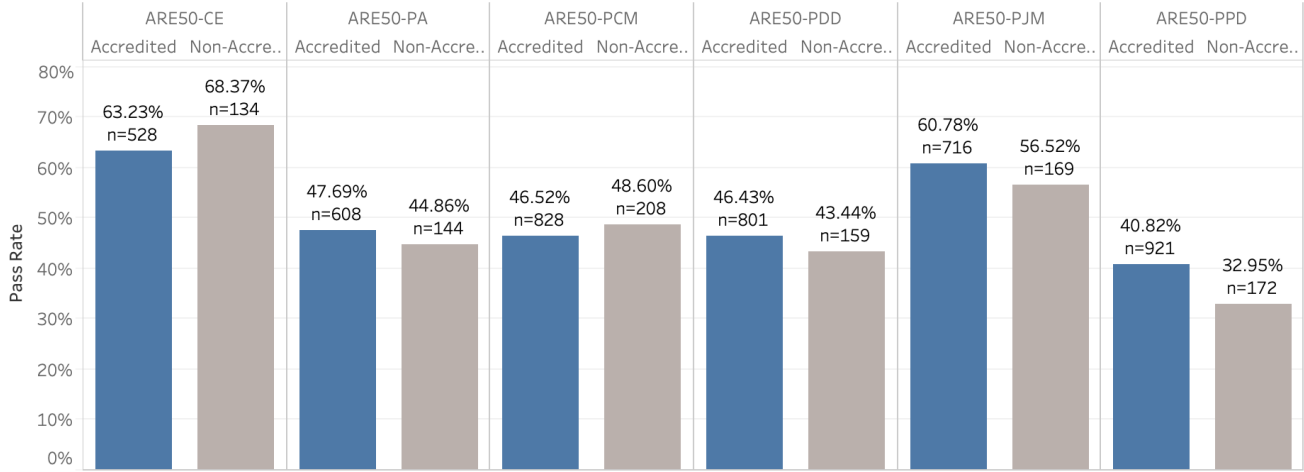
| ARE50-CE | ARE50-PA | ARE50-PCM | ARE50-PDD | ARE50-PJM | ARE50-PPD |
|----------|----------|-----------|-----------|-----------|-----------|
| 60.85% | 43.65% | 45.09% | 43.01% | 57.07% | 36.65% |

Division Pass Rates (excl. CA)

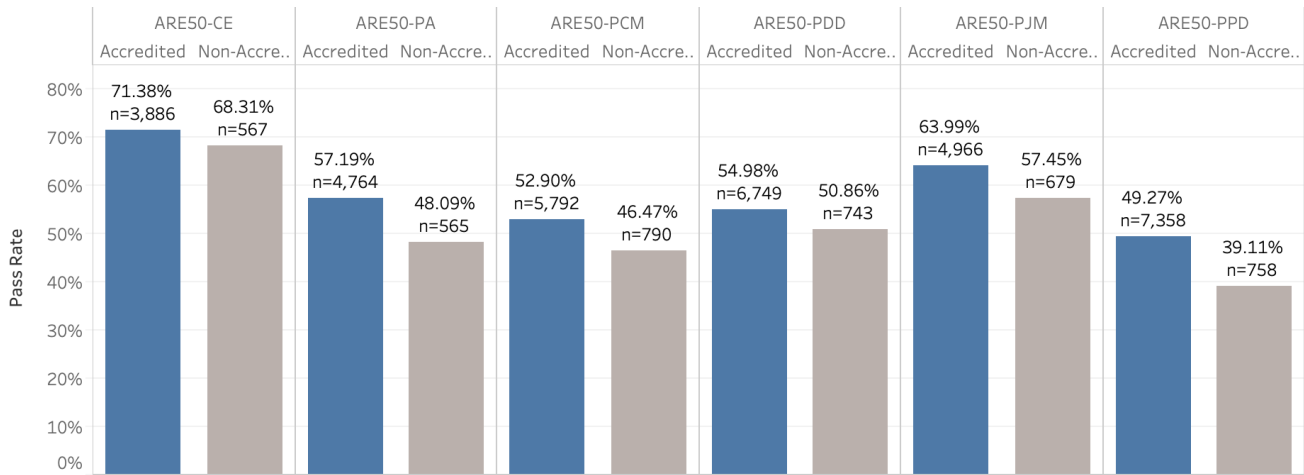
| ARE50-CE | ARE50-PA | ARE50-PCM | ARE50-PDD | ARE50-PJM | ARE50-PPD |
|----------|----------|-----------|-----------|-----------|-----------|
| 70.37% | 55.19% | 51.31% | 54.17% | 62.58% | 47.50% |

California ARE 5.0 Pass Rates

California ARE 5.0 Pass Rates by Division NAAB vs. Non-NAAB Examinees



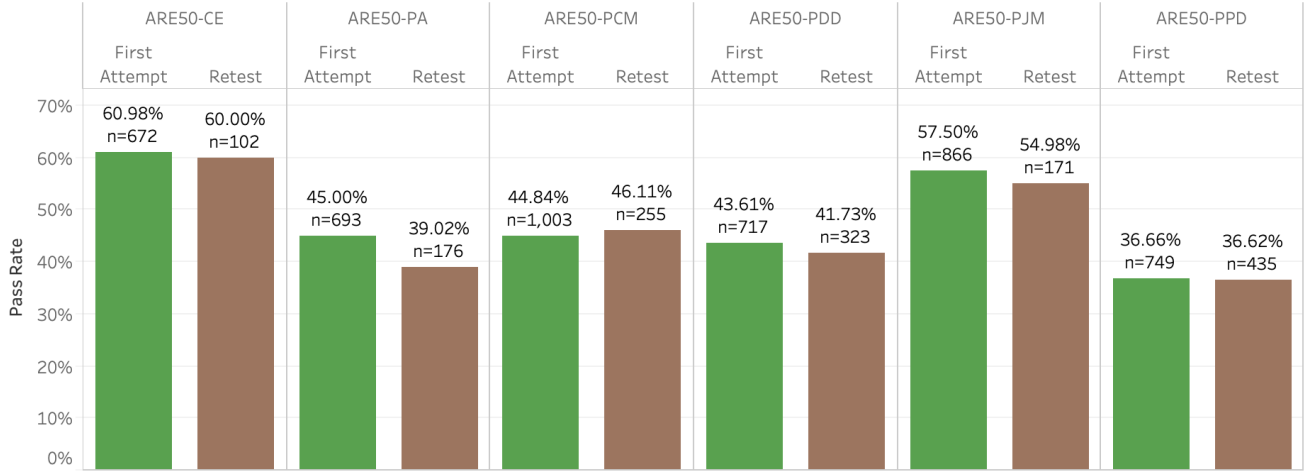
ARE 5.0 Pass Rates by Division (excl. CA) NAAB vs. Non-NAAB Examinees



California ARE 5.0 Pass Rates

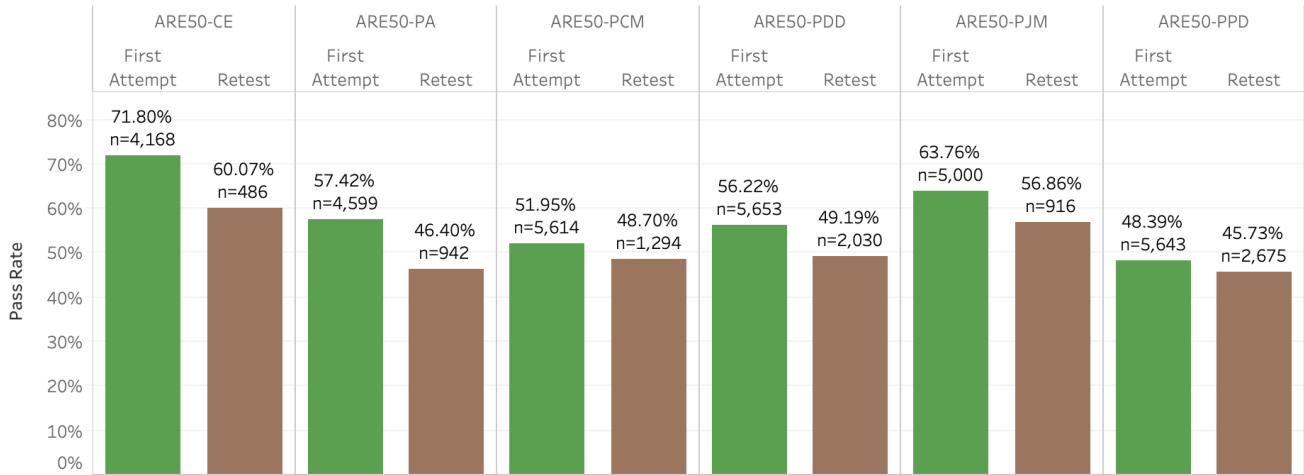
California ARE 5.0 Pass Rates by Division

First Test vs. Retakes



ARE 5.0 Pass Rates by Division (excl. CA)

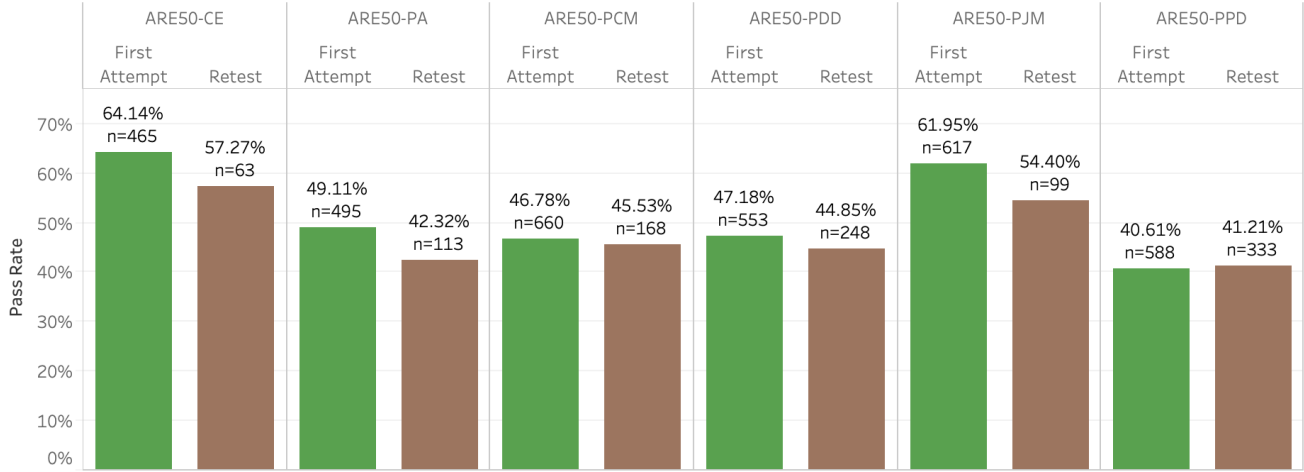
First Test vs. Retakes



California ARE 5.0 Pass Rates

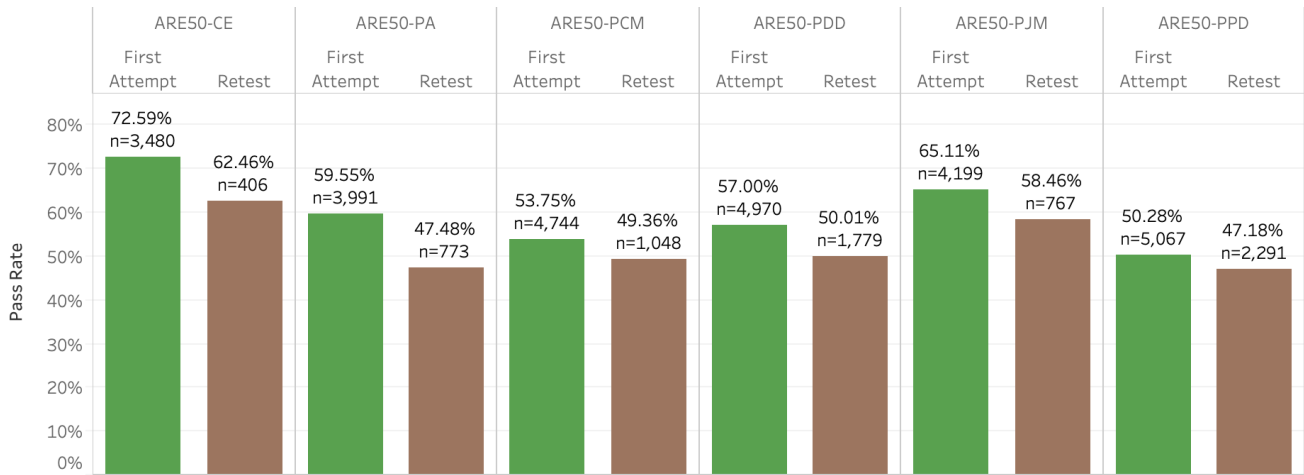
California ARE 5.0 Pass Rates by Division

First Test vs. Retakes for NAAB Examinees



ARE 5.0 Pass Rates by Division (excl. CA)

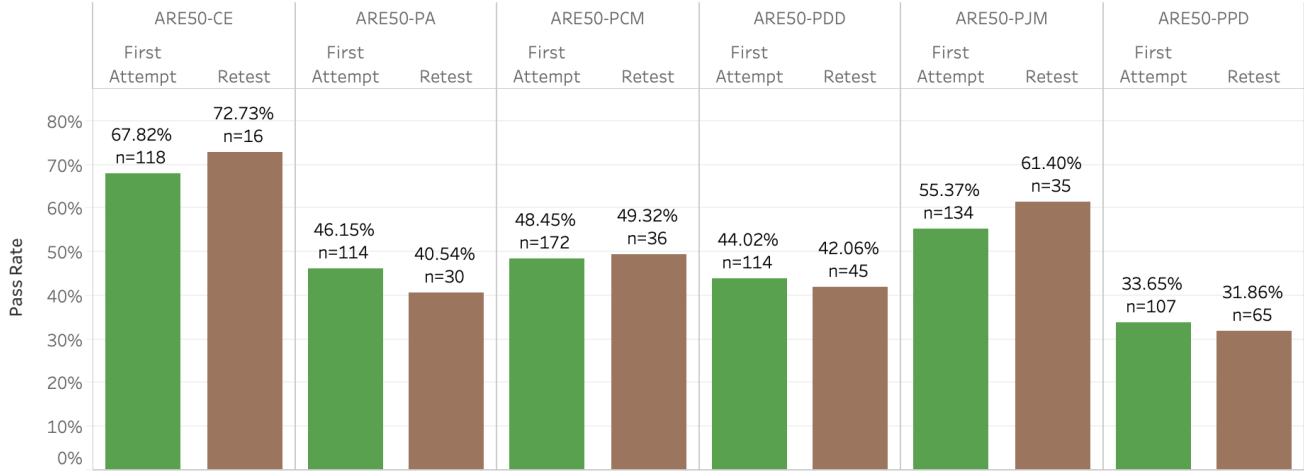
First Test vs. Retakes for NAAB Examinees



California ARE 5.0 Pass Rates

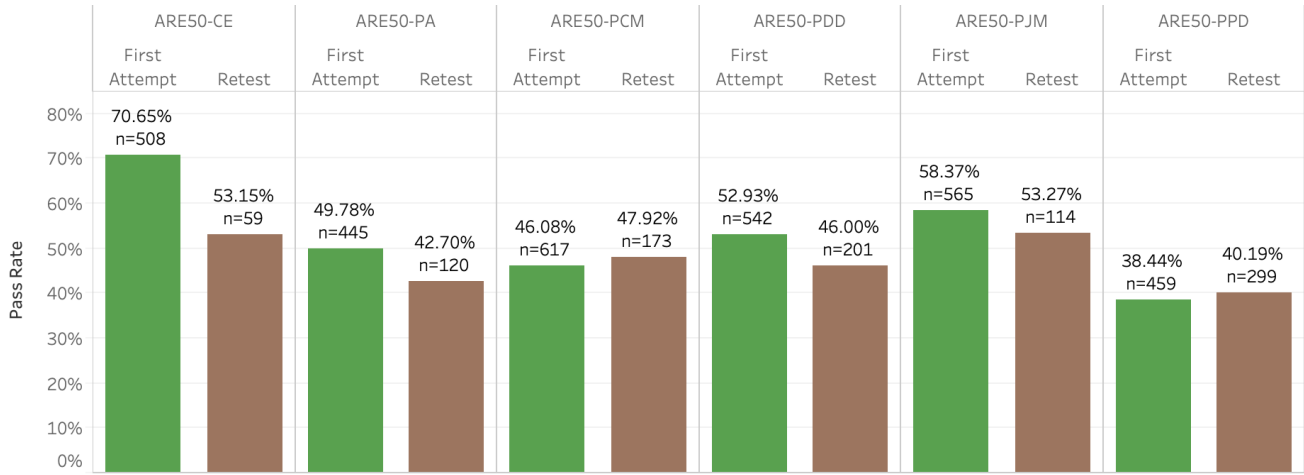
California ARE 5.0 Pass Rates by Division

First Test vs. Retakes for Non-NAAB Examinees (excl. Unknown)



ARE 5.0 Pass Rates by Division (excl. CA)

First Test vs. Retakes for Non-NAAB Examinees (excl. Unknown)



AGENDA ITEM M: DISCUSS AND POSSIBLE ACTION ON RETIRED LICENSE STATUS AND FEE

Summary

At the February 27, 2019 Board meeting, members requested information on how the Board compares with other Department of Consumer Affairs (DCA) entities respective to whether they have a retired license status and the cost to retire a license. At the June 12, 2019 Board meeting, staff presented members with its comparison research respective to the retired architect license status. The Board discussed the benefits of the retired license status and the associated restrictions mandated by the relevant statutes and regulations. The Board determined that the fee for retiring an architect license was significantly higher than other DCA programs that offer such a status. The Board discussed whether the fee could be reduced or eliminated and asked staff to analyze the potential budgetary impact of changing the retired license fee.

Business and Professions Code (BPC) section 5604, subdivision (h) establishes that the fee for a retired license may not exceed the fee prescribed for an original license, which is currently prescribed in regulation at \$300. As BPC section 5604 provides a cap on the amount that may be charged for a retired license, staff has determined the retired architect license fee should be further clarified in regulation. California Code of Regulations (CCR), title 16, division 2, article 7, section 144 provides a list of the fixed fees associated with application, examination, and licensure with the Board. Staff recommends the Board authorize a regulatory proposal to amend CCR section 144 to clarify the fee for a retired license.

For the Board's determination of the appropriate retired license fee to be prescribed in regulation, staff reviewed the data from the past several fiscal years (FY) and found that approximately 500 retired architect licenses were issued over that six-year period, generating approximately \$25,000 annually in collected fees. In addition, attached are Analyses of Fund Condition prepared by the DCA Budget Office that provide revenue projections for three retired license fee scenarios: 1) \$300 current fee; 2) \$150; and 3) \$0 fee.

Action Requested

The Board is asked to discuss the matter and take possible action.

Attachment(s)

Analyses of Fund Condition (Prepared August 29, 2019)

**0706 - California Architects Board
Analysis of Fund Condition**

Prepared 8.29.2019

2019-20 Budget Act

With Retired Fee at \$300 and based on 85 Applicants per year

| | PY 2017-18 | PY 2018-19 | Budget Act CY 2019-20 | BY 2020-21 | BY + 1 2021-22 | BY + 2 2022-23 |
|--|---------------|---------------|--------------------------------|---------------|-------------------|-------------------|
| BEGINNING BALANCE | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,740 | \$ 4,595 |
| Prior Year Adjustment | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,740 | \$ 4,595 |
| REVENUES AND TRANSFERS | | | | | | |
| Revenues: | | | | | | |
| 4121200 Delinquent fees | \$ 67 | \$ 26 | \$ 70 | \$ 70 | \$ 70 | \$ 70 |
| 4127400 Renewal fees | \$ 3,802 | \$ 2,533 | \$ 3,693 | \$ 3,693 | \$ 3,693 | \$ 3,693 |
| 4129200 Other regulatory fees | \$ 3 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 |
| 4129400 Other regulatory licenses and permits | \$ 475 | \$ 460 | \$ 460 | \$ 460 | \$ 460 | \$ 460 |
| 4163000 Income from surplus money investments | \$ 57 | \$ 76 | \$ 60 | \$ 70 | \$ 68 | \$ 64 |
| 4171400 Escheat of unclaimed checks and warrants | \$ 1 | \$ 1 | \$ - | \$ - | \$ - | \$ - |
| 4172500 Miscellaneous revenues | \$ 1 | \$ - | \$ 1 | \$ 1 | \$ 1 | \$ 1 |
| Totals, Revenues | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,314 | \$ 4,312 | \$ 4,308 |
| Totals, Revenues and Transfers | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,314 | \$ 4,312 | \$ 4,308 |
| Totals, Resources | \$ 9,376 | \$ 8,865 | \$ 8,983 | \$ 9,077 | \$ 9,052 | \$ 8,903 |
| EXPENDITURES | | | | | | |
| Disbursements: | | | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 3,411 | \$ 3,929 | \$ 3,897 | \$ 4,014 | \$ 4,134 | \$ 4,258 |
| 8880 Financial Information System for California (State Operations) | \$ 4 | \$ - | \$ -1 | \$ -1 | \$ -1 | \$ -1 |
| 9892 Supplemental Pension Payment (State Operations) | \$ - | \$ 44 | \$ 95 | \$ 95 | \$ 95 | \$ 95 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 212 | \$ 213 | \$ 229 | \$ 229 | \$ 229 | \$ 229 |
| Total Disbursements | \$ 3,627 | \$ 4,186 | \$ 4,220 | \$ 4,337 | \$ 4,457 | \$ 4,581 |
| FUND BALANCE | | | | | | |
| Reserve for economic uncertainties | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,740 | \$ 4,595 | \$ 4,322 |
| Months in Reserve | 16.5 | 13.3 | 13.2 | 12.8 | 12.0 | 11.0 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY + 1 AND ON-GOING
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY + 1 AND ON-GOING
- C. ASSUMES INTEREST RATE OF 1.5%

**0706 - California Architects Board
Analysis of Fund Condition**

Prepared 8.29.2019

2019-20 Budget Act

With Retired Fee reduced from \$300 to \$150 based on 85 Applicants per year

| | PY 2017-18 | PY 2018-19 | Budget Act CY 2019-20 | BY 2020-21 | BY + 1 2021-22 | BY + 2 2022-23 |
|--|---------------|---------------|--------------------------------|---------------|-------------------|-------------------|
| BEGINNING BALANCE | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,728 | \$ 4,571 |
| Prior Year Adjustment | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,728 | \$ 4,571 |
| REVENUES AND TRANSFERS | | | | | | |
| Revenues: | | | | | | |
| 4121200 Delinquent fees | \$ 67 | \$ 26 | \$ 70 | \$ 70 | \$ 70 | \$ 70 |
| 4127400 Renewal fees | \$ 3,802 | \$ 2,533 | \$ 3,693 | \$ 3,693 | \$ 3,693 | \$ 3,693 |
| 4129200 Other regulatory fees | \$ 3 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 |
| 4129400 Other regulatory licenses and permits | \$ 475 | \$ 460 | \$ 460 | \$ 448 | \$ 448 | \$ 448 |
| 4163000 Income from surplus money investments | \$ 57 | \$ 76 | \$ 60 | \$ 70 | \$ 68 | \$ 63 |
| 4171400 Escheat of unclaimed checks and warrants | \$ 1 | \$ 1 | \$ - | \$ - | \$ - | \$ - |
| 4172500 Miscellaneous revenues | \$ 1 | \$ - | \$ 1 | \$ 1 | \$ 1 | \$ 1 |
| Totals, Revenues | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,302 | \$ 4,300 | \$ 4,295 |
| Totals, Revenues and Transfers | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,302 | \$ 4,300 | \$ 4,295 |
| Totals, Resources | \$ 9,376 | \$ 8,865 | \$ 8,983 | \$ 9,065 | \$ 9,028 | \$ 8,866 |
| EXPENDITURES | | | | | | |
| Disbursements: | | | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 3,411 | \$ 3,929 | \$ 3,897 | \$ 4,014 | \$ 4,134 | \$ 4,258 |
| 8880 Financial Information System for California (State Operations) | \$ 4 | \$ - | \$ -1 | \$ -1 | \$ -1 | \$ -1 |
| 9892 Supplemental Pension Payment (State Operations) | \$ - | \$ 44 | \$ 95 | \$ 95 | \$ 95 | \$ 95 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 212 | \$ 213 | \$ 229 | \$ 229 | \$ 229 | \$ 229 |
| Total Disbursements | \$ 3,627 | \$ 4,186 | \$ 4,220 | \$ 4,337 | \$ 4,457 | \$ 4,581 |
| FUND BALANCE | | | | | | |
| Reserve for economic uncertainties | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,728 | \$ 4,571 | \$ 4,285 |
| Months in Reserve | 16.5 | 13.3 | 13.2 | 12.7 | 12.0 | 10.9 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY + 1 AND ON-GOING
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY + 1 AND ON-GOING
- C. ASSUMES INTEREST RATE OF 1.5%

**0706 - California Architects Board
Analysis of Fund Condition**

Prepared 8.29.2019

2019-20 Budget Act

With Retired Fee reduced from \$300 to \$0 based on 85 Applicants per year

| | PY 2017-18 | PY 2018-19 | Budget Act CY 2019-20 | BY 2020-21 | BY + 1 2021-22 | BY + 2 2022-23 |
|--|---------------|---------------|--------------------------------|---------------|-------------------|-------------------|
| BEGINNING BALANCE | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,715 | \$ 4,544 |
| Prior Year Adjustment | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 4,970 | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,715 | \$ 4,544 |
| REVENUES AND TRANSFERS | | | | | | |
| Revenues: | | | | | | |
| 4121200 Delinquent fees | \$ 67 | \$ 26 | \$ 70 | \$ 70 | \$ 70 | \$ 70 |
| 4127400 Renewal fees | \$ 3,802 | \$ 2,533 | \$ 3,693 | \$ 3,693 | \$ 3,693 | \$ 3,693 |
| 4129200 Other regulatory fees | \$ 3 | \$ 20 | \$ 20 | \$ 20 | \$ 20 | \$ 20 |
| 4129400 Other regulatory licenses and permits | \$ 475 | \$ 460 | \$ 460 | \$ 435 | \$ 435 | \$ 435 |
| 4163000 Income from surplus money investments | \$ 57 | \$ 76 | \$ 60 | \$ 70 | \$ 67 | \$ 63 |
| 4171400 Escheat of unclaimed checks and warrants | \$ 1 | \$ 1 | \$ - | \$ - | \$ - | \$ - |
| 4172500 Miscellaneous revenues | \$ 1 | \$ - | \$ 1 | \$ 1 | \$ 1 | \$ 1 |
| Totals, Revenues | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,289 | \$ 4,286 | \$ 4,282 |
| Totals, Revenues and Transfers | \$ 4,406 | \$ 3,116 | \$ 4,304 | \$ 4,289 | \$ 4,286 | \$ 4,282 |
| Totals, Resources | \$ 9,376 | \$ 8,865 | \$ 8,983 | \$ 9,052 | \$ 9,001 | \$ 8,826 |
| EXPENDITURES | | | | | | |
| Disbursements: | | | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 3,411 | \$ 3,929 | \$ 3,897 | \$ 4,014 | \$ 4,134 | \$ 4,258 |
| 8880 Financial Information System for California (State Operations) | \$ 4 | \$ - | \$ -1 | \$ -1 | \$ -1 | \$ -1 |
| 9892 Supplemental Pension Payment (State Operations) | \$ - | \$ 44 | \$ 95 | \$ 95 | \$ 95 | \$ 95 |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 212 | \$ 213 | \$ 229 | \$ 229 | \$ 229 | \$ 229 |
| Total Disbursements | \$ 3,627 | \$ 4,186 | \$ 4,220 | \$ 4,337 | \$ 4,457 | \$ 4,581 |
| FUND BALANCE | | | | | | |
| Reserve for economic uncertainties | \$ 5,749 | \$ 4,679 | \$ 4,763 | \$ 4,715 | \$ 4,544 | \$ 4,245 |
| Months in Reserve | 16.5 | 13.3 | 13.2 | 12.7 | 11.9 | 10.8 |

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY + 1 AND ON-GOING
- B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY + 1 AND ON-GOING
- C. ASSUMES INTEREST RATE OF 1.5%

AGENDA ITEM N.1: UPDATE ON AUGUST 1, 2019 REC MEETING

The REC met on August 1, 2019 in Sacramento (see the attached Notice of Meeting). Robert C. Pearman, Chair of the Committee will provide an update to the Board on the meeting.

Attachment(s)

REC August 1, 2019 Notice of Meeting



Committee Members

Robert C. Pearman, Chair
Sylvia Kwan, Vice Chair
Fred Cullum
Cheryl DeMarco
Robert Ho
Gary L. McGavin
Sheran Voigt

NOTICE OF MEETING

Regulatory and Enforcement Committee

August 1, 2019

**Sequoia Room
2420 Del Paso Road, Suite 109A
Sacramento, CA 95834
(916) 574-7220 (Board Office)**

The Regulatory and Enforcement Committee (REC) will hold a meeting as noted above.

AGENDA

10:00 a.m. to 2:00 p.m.
(or until completion of business)

Action may be taken on any item listed below on the agenda.

- A. Call to Order / Roll Call / Establishment of a Quorum
- B. Chair's Procedural Remarks and Committee Member Introductory Comments
- C. Public Comment on Items Not on the Agenda

The Committee may not discuss or act on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).

- D. Review and Possible Action on August 23, 2018 REC Meeting Minutes
- E. Enforcement Program Update
- F. Discuss and Possible Action on 2017/2018 Strategic Plan Objective to Update the Building Official Information Guide to Better Educate Local Building Officials on the Architects Practice Act
- G. Discuss and Possible Action on 2019-2021 Strategic Plan Objectives to:

(Continued)

1. Educate Architects Regarding Their Responsibilities under Business and Professions Code Section 5535.1 (Responsible Control) and California Code of Regulations (CCR) Section 151 (Aiding and Abetting) to Protect Consumers From Unlicensed Practice
2. Research and Evaluate Categories of Criminal Convictions as They Relate to the Practice of Architecture and Amend Disciplinary Guidelines and Rehabilitation Criteria to Comply With the Requirements of Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018)
3. Collaborate With Websites to Restrict Advertisements From Unlicensed Entities

H. Legislative Update:

1. AB 1076 (Ting, 2019) Criminal Records: Automatic Relief
2. Senate Bill (SB) 608 (Glazer, 2019) Architects and Landscape Architects
3. SB 721 (Hill, Chapter 445, Statutes of 2018) Building Standards: Decks and Balconies: Inspection

I. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the *Bagley-Keene Open Meeting Act*, all meetings of the Committee are open to the public. This meeting will not be webcast. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to it taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at their discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

(Continued)

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting:

Person: Michael Sganga

Telephone: (916) 575-7203

Email: michael.sganga@dca.ca.gov

Telecommunications Relay Service: Dial 711

Mailing Address:

California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code section 5510.15).

AGENDA ITEM N.2: REVIEW AND POSSIBLE ACTION ON UPDATE TO *BUILDING OFFICIAL INFORMATION GUIDE*

Summary

The California Architects Board's 2017-2018 Strategic Plan contained an objective assigned to the Regulatory and Enforcement Committee (REC) to update the Board's *Building Official Information Guide (Guide)* to better educate local building officials on the *Architects Practice Act*.

The Board's *Building Official Information Guide* was last published in 2000 and is a compilation of responses to questions the Board has received from building officials and other items of interest to those who enforce local building standards.

The Board's architect consultants and staff reviewed the 2000 edition of the *Guide*, as well as the building official information guides published by the Board for Professional Engineers, Land Surveyors, and Geologists, and the Contractors State License Board, and made necessary updates and revisions to the content of the Board's *Guide*.

At the August 2018 REC meeting, members discussed the proposed revisions to the *Guide* and recommended to include a summary about mechanic's liens and how to obtain additional information about the process.

Following the August 2018 meeting, staff consulted with the Department of Consumer Affairs legal counsel regarding the proposed revisions and feedback provided by the REC. During the August 2019 REC meeting, members discussed the latest revisions and updates and recommended the *Guide* be brought to the Board for final approval before publication and posting to the Board's website.

A final draft of the *Guide* is attached for the Board's review and consideration.

Recommendation(s)

The REC recommends the Board approve the revised *Building Official Information Guide*.

Action Requested

The Board is asked to review and take possible action on the proposed revisions to the *Guide*.

Attachment(s)

Board's *Building Official Information Guide* (draft with proposed revisions)

CALIFORNIA ARCHITECTS BOARD

BUILDING OFFICIAL INFORMATION GUIDE (WITH PROPOSED REVISIONS)

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Landscape Architects

Land Surveyors

Mechanic's Lien Laws

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~~Title 24 (State Building Code)~~

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~~Violations of the Architects Practice Act~~

Attachments

~~Consumer Complaint Form~~

~~Plan Check Review Process and Evaluation Program~~

Index by Topic

Purpose

This guide for building officials is provided by the California Architects Board (~~CAB~~[Board](#)) to aid you in understanding and enforcing the laws and regulations governing the practice of architecture [and landscape architecture](#) in California.

The guide is a compilation of responses to questions that the ~~CAB~~[Board](#) has received from building officials and ~~of~~ other items of interest to those who must enforce local building standards. It is intended as a source of basic information and does not attempt to address all the questions that could arise covering the practice of architecture in this large, diverse state.

Some of the items covered herein are interpretations of the Architects Practice Act and ~~of~~ the ~~CAB's~~[Board's](#) rules and regulations. Other items are explanatory and/or advisory.

If you need further information or assistance concerning this guide, please ~~write or telephone~~[contact](#):

California Architects Board

~~400 R Street, Suite 4000~~[2420 Del Paso Road, Suite 105](#)
Sacramento, California ~~95814-6238~~[95834](#)

Telephone: (916) ~~445-3394~~[574-7220](#)

Toll Free: (800) 991-2223

Fax: (916) ~~445-8524~~[575-7283](#)

E-mail: cab@dca.ca.gov

Website: www.cab.ca.gov

Landscape Architects Technical Committee

Telephone: (916) ~~445-4954~~[575-7230](#)

Fax: (916) ~~324-2333~~[575-7283](#)

E-mail: latc@dca.ca.gov

Website: www.latc.ca.gov

Introduction

Each day, millions of Californians work and live in environments designed by licensed architects. The decisions of architects about materials and methods of construction impact not only the health, safety, and welfare of the present users, but of future generations as well.

To reduce the possibility of building failure, encourage energy conscious design, provide disability access, and safeguard the public health and welfare, those who represent themselves as skilled in the design of complex structures must meet minimum standards of competency. It is equally necessary that those who cannot meet minimum standards by way of education, experience, and examination be prevented from misrepresenting themselves to the public.

The California Architects Board ([CABBoard](#)) was created by the California Legislature in 1901 to safeguard the public's health, safety, and welfare. It is one of the boards, bureaus, commissions and committees within the Department of Consumer Affairs ([Department](#)), which is part of the [State and Business, Consumer Services and Housing Agency](#) under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services.

Effective January 1, 1998, the [CABBoard](#) assumed administrative responsibility for regulating landscape architects. Under current law, a Landscape Architects Technical Committee (LATC) acts in an advisory capacity to the [CABBoard](#). The LATC, which consists of five professional members, performs such duties and functions which have been delegated to it by the [CABBoard](#).

The [CABBoard](#) is presently composed of ten members of whom, by law, five are public members and five are architects. Five architect members and three of the public members are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint a public member to the [CABBoard](#).

The [CABBoard](#) attempts to ensure that all who practice architecture are licensed and qualified to practice. To become licensed as an architect, a candidate must successfully complete a written and California Supplemental Examination, as well as provide evidence of at least eight years of education and/or experience.

The [CABBoard](#) attempts through its [eEnforcement pProgram](#) to ensure that its licensees are competent to practice architecture and that the laws governing the practice of architecture are enforced in a fair and judicious manner. The [CABBoard](#) has the power, duty, and authority to investigate violations of the Architects Practice Act [and the Landscape Architects Practice Act](#) and to ~~discipline~~ [take disciplinary or enforcement action against](#) violators accordingly.

Building officials, on the other hand, enforce building code requirements, which are also designed to protect the public health and safety. Many building departments depend on licensed design professionals (architects and engineers) to deliver structures that meet code standards. So, while the building officials rely on licensing boards to ensure that architects and engineers are competent, the licensing boards rely on the building officials to ensure that only properly licensed

or registered professionals prepare, stamp, and sign plans and specifications for non-exempt structures.

In order to protect California consumers, the Board encourages building officials and their staff to promptly report suspected violations of the Architects Practice Act and Landscape Architects Practice Act, such as advertising violations, unlicensed practice, fraudulent stamps, and aiding or abetting, to the Board's Enforcement Unit. This information may be submitted anonymously.

This guide is provided to aid building officials in understanding the laws and regulations governing the practice of architecture in California and better enable them to carry out their difficult jobs.

Advertising of Architectural Services

1. May an unlicensed person advertise architectural services?

No. An individual not licensed by the [CAB Board](#) may not advertise or practice architecture in California. An unlicensed person cannot "...[advertise or](#) put out any sign, ~~or~~ card, or other device ~~which~~[that](#) might indicate to the public that he or she is an architect, ~~or~~ that he or she is qualified to engage in the practice of architecture, or [that he or she](#) is an architectural designer."

An unlicensed individual may not offer architectural services or advertise [on the Internet or](#) in the yellow pages or business directories under ~~the~~ headings ~~of~~[such as](#) "architect," "architectural design" or "architectural drafting."

(Ref.: Business ~~&~~[and](#) Professions ~~(B&P)~~ Code [\(BPC\)](#) Section 5536[\(a\)](#))

~~2. How must architectural businesses advertise?~~

~~When advertising and/or using any business card, or letterhead, or sign, or title block or any other "advertising" device, an architectural business whose name, or description of services, includes the word "architect", "architecture", or "architectural" must also list the name of a licensed architect followed by the word "architect." The following architectural business name criteria are excerpted from the Architects Practice Act, California Code of Regulations Section 134.~~

~~If an architectural business name includes as part of its title or description of services the term "architect," "architecture," or "architectural," then that business name must include the following when the business is a:~~

- ~~▪ **Sole Proprietorship:** the name as licensed with the CAB of the architect and the fact that he or she is an architect.~~
- ~~▪ **Partnership:** the name as licensed with the CAB of at least one general partner and the fact that he or she is an architect.
Partnership exception: ~~If the business name contains the surnames of general partners licensed by the CAB, there is no further requirement to designate a licensee.~~~~
- ~~▪ **Corporation** (which is not a Professional Architectural Corporation): the name as licensed with the CAB of a licensed architect who is either an officer or an employee of the corporation and the fact that such person is an architect.~~
- ~~▪ **Professional Architectural Corporation:** refer to B&PC Section 5610 and the California Corporations Code for the specific requirements of this class of corporation.~~

(Ref.: B&P Code Section 5536 and California Code of Regulations (CCR) Section 134)

Aiding and Abetting Unlicensed Practice

1. What constitutes aiding and abetting?

Aiding and abetting occurs when a California licensed architect:

- Assists unlicensed individuals to circumvent the Architects Practice Act, ~~B&P Code~~[BPC](#) Section 5500 et seq.
- Stamps and signs documents which have not been prepared by the architect ~~or in the architect's office,~~ or under the architect's responsible control.
- Permits his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of the Architects Practice Act.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5582, ~~and~~ 5582.1 and [California Code of Regulations \(CCR\), Title 16](#), Sections ~~135 and~~ 151)

Architects Scope of Practice

1. Who may refer to himself or herself as an architect?

Only ~~an individual~~s who holds a current license issued by the ~~CAB~~Board may refer to ~~himself or herself~~themselves as an architect or use any term ~~confusingly~~ similar to the word architect to describe themselves, their qualifications, or the services they provide.

(Ref.: ~~B&P Code~~BPC Section 5536-(a))

2. What may an architect design?

The Architects Practice Act defines the practice of architecture as including "...the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures." Therefore, an architect may design any building type and all components therein. An exception is the structural design of a hospital that must be done by a structural engineer pursuant toby the ~~State~~ Health ~~&~~and Safety Code.

(Ref.: ~~B&P Code~~BPC Sections 5500.1, and 6737 and Health and Safety ~~(H&S)~~-Code (HSC) Section 129805)

3. What is the ~~CAB's~~Board's definition of construction observation services?

"Construction observation services" means periodic observation of completed work (*in progress*) to determine general compliance with the plans, specifications, reports or other contract documents. "Construction observation services" does not mean the superintendence (*supervision*) of construction processes, site conditions, operations, equipment, or personnel, or the maintenance of a safe place to work or any safety ~~measures~~-in, on, or about the site.

(Ref.: ~~B&P Code~~BPC Section 5536.25-(c))

4. May architects design bridges?

In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design all on-site improvements, including a structure such as a bridge.

Exception: If on-site improvements such as roads, bridges, etc. are being submitted subject to the Subdivision Map Act, they must be designed by appropriate engineers.

(Ref.: ~~B&P Code~~BPC Sections 5500.1 and 6737 and Government Code Section 66410 et seq.)

5. If the architect has not agreed to provide construction phase services for the owner of the project, can the building official require the architect to review project shop drawings?

No. The architect has no obligation to provide such services either to the owner of the project or to a local building jurisdiction.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

6. May an architect act as a general contractor for the owner and hire subcontractors for the construction phase of a project under his architectural license?

No. An architect would also need to be licensed as a contractor to perform such services. The Contractors' State License~~ing~~ Law (CSLL) does not exempt architects unless they are acting solely within their professional capacity, which does not include contracting [construction](#) work for others.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 7051)

7. Does an architect's license entitle an architect to build an exempt building without a contractor's license?

No. The construction of buildings is governed by the CSLL (commencing with ~~B&P Code~~[BPC](#) Section 7000). The CSLL has an exemption ~~which~~[that](#) allows a person who is not a licensed contractor to construct a single-family residential structure provided they meet certain requirements. Questions concerning this exemption should be directed to the Contractors' State License Board.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 7000 [et seq.](#))

~~**8. May architects provide design/build services?**~~

~~Yes, but there are certain restrictions. The architect designs projects, but the construction of the project must normally be done by a licensed contractor. For example, an architect may also be a licensed contractor, or an architectural firm may have a subsidiary that is licensed as a contractor, or an architect may be associated with a licensed contractor.~~

~~(Ref.: ~~B&P Code~~ Section 5500.1)~~

89. May architects prepare, stamp, and sign mechanical, electrical, and plumbing drawings?

Yes. The Architects Practice Act allows architects to prepare, stamp, and sign [mechanical, electrical, and plumbing](#) drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..."

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 6737)

910. May architects certify elevations of structures on a site when such certifications are required by building officials?

Yes. However, the certification must be based on survey data furnished by licensed [land](#) surveyors or appropriately registered civil engineers.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1, [5536.26](#), and 8700)

1011. Are there any height restrictions or limitations imposed by the ~~CAB~~Board as to an architect's structural design ~~capabilities~~authority?

No.

(Ref.: ~~B&P Code~~BPC Section 5500.1)

1112. May an architect prepare, stamp and sign landscape drawings without a landscape architect's license?

Yes. Insofar as the architect is responsible for the planning of a site, the architect is exempt from the Landscape Architects' ~~Licensing Law~~ Practice Act and, therefore, may prepare, stamp, and sign landscape drawings for the site.

(Ref.: ~~B&P Code~~BPC Sections 5500.1 and 5641.3)

~~13. Are architects required to have liability insurance or to be bonded?~~

~~No. However, a professional architectural corporation and a limited liability partnership are required to provide adequate security for claims against it by insurance or other means.~~

~~(Ref.: B&P Code Section 5610 and CCR Sections 16101, 16953, 16956, and 16959)~~

~~14. May architects prepare and sign mechanical and plumbing drawings normally prepared by mechanical engineers?~~

~~Yes. The Architects Practice Act allows architects to prepare, stamp and sign mechanical and plumbing drawings since the definition for scope of architectural practice includes "...the design, in whole or part, of buildings..."~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

1215. May an architect prepare designs for site retaining walls, culverts, and other fixed works on a site if the architect is not responsible for the site planning of a project and the work is not considered a "phase of architecture" under the Professional Engineers ~~Law~~Act exemption?

No, given the situation where the architect is not responsible for the planning of the site or the "fixed works" are not associated with the design of a building or groups of buildings. Under such circumstances the "fixed works" would be considered civil engineering, and the architect would not qualify for the exemption under the Professional Engineers Act.

(Ref.: ~~B&P Code~~BPC Sections 5500.1 and 6737)

1316. May architects prepare, stamp, and sign site grading and drainage plans?

Yes. An architect is allowed under the Architects Practice Act and the Professional Engineers Act exemption to prepare, stamp, and sign site grading and drainage plans, except where such plans are submitted pursuant to the Subdivision Map Act. Cities or counties may not prohibit an architect from engaging in the preparation of plans for site grading, which is a function of the practice of architecture as defined in ~~Business and Professions Code~~ [BPC](#) Section 5500.1.

(Ref.: ~~B&P Code~~ [BPC](#) Sections 460, 5500.1, [and](#) 6737 and Government Code Section 66410 et seq.)

1417. May local building officials insist that civil engineers prepare and sign site grading and site drainage drawings ~~as required by the Uniform Building Code~~ as a condition for permit issuance even though an architect prepares the site plan and the grading and drainage plans?

No. Architects are allowed by the Architects Practice Act to prepare, stamp, and sign such drawings as part of their services. State licensure of architects supersedes any local code or ordinance that might restrict an architect licensed by the ~~s~~State from performing services.

(Ref.: ~~Previous~~ [Response to](#) question #~~16~~[13](#) and ~~B&P Code~~ [BPC](#) Sections 460 and 5500.1)

1518. Are architects authorized to perform soil tests?

No. Such tests are not considered to be part of the practice of architecture.

(Ref.: ~~B&P Code~~ [BPC](#) Section 5500.1)

1619. Does an architect's license entitle an architect to perform special inspections as specified in the ~~Uniform~~ [California Building Standards](#) Code without demonstrating their ability to perform such services to the satisfaction of a building official?

No. Special inspections are not considered to be part of the practice of architecture. Therefore, an architect would have to comply with a building official's requirement to demonstrate such ability before being permitted to perform required special inspections.

(Ref.: ~~B&P Code~~ [BPC](#) Section 5500.1)

1720. May architects prepare, stamp and sign structural calculations and structural drawings?

Yes. The Architects Practice Act allows architects to prepare, stamp, and sign structural calculations and structural drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..." except for the structural calculations and structural drawings for a hospital, [which must be prepared by a structural engineer](#).

(Ref.: ~~B&P Code~~ [BPC](#) Sections 5500.1, [and](#) 6737 and ~~H&S Code~~ [HSC](#) Section 129805)

~~21. May architects design swimming pools?~~

~~In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design a structure such as a swimming pool.~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

~~22. Must below grade swimming pool drawings be prepared and signed by an architect or engineer?~~

~~Under both the Architects Practice Act and the Professional Engineers Act, below grade swimming pools would be considered non-exempt “fixed works” or structures requiring the stamp and signature of a licensed architect or registered engineer.~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

1823. Are architects authorized to perform surveys without a land surveyor’s license or civil engineer registration?

No.

(Ref.: ~~B&P Code~~BPC Section 5500.1)

1924. When a licensed architect working on a project quits or is discharged, may another architect sign the original licensee’s plans or instruments?

Provided both architects are licensed in California, and the supplanting architect completely reviews the plans of the original architect, making necessary, or client-directed changes, the supplanting architect has “prepared” the plans for purposes of ~~Business and Professions Code~~BPC Section 5582.1 and may stamp and sign them, absent fraud, deception or dishonesty.

(Ref.: CCR, Title 16, Section 151)

Building Designers

1. Are building designers licensed by the state?

No. At one time, the state recognized “registered building designers”; however, that category was eliminated in 1985.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536(b) ~~&~~[and](#) (c))

2. May individuals advertise as building designers?

Yes. However, they cannot refer to themselves as “registered” building designers or otherwise indicate that they are licensed or registered by the state.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536(b) ~~&~~[and](#) (c))

3. What services can a building designer provide?

Refer to the section titled “Unlicensed Individuals,” ~~that~~[which](#) can be found elsewhere in this guide.

Building Official's Responsibility With Respect to Architects Practice Act

1. Are building officials required to verify whether the individual who prepares and submits permit documents for non-exempt projects has a current license?

Yes. If a building permit is required, building officials are required to verify that an individual who prepares and submits permit documents for non-exempt projects has a current license. The building official must require a signed statement that the person who prepared the plans and specifications is licensed under the Architects Practice Act or is otherwise licensed in this state to prepare the plans and specifications. An architect's signature and stamp on plans and specifications will satisfy the signed statement requirement. ~~The CAB's biennial "Roster of Licensed Architects" may be used to verify licensure of an architect. If the architect is listed and the expiration date is current, no further action by the building official is necessary. If the architect is listed and the expiration date has passed, the building official should contact the CAB for verification of status.~~ If the person submitting the plans purports to be an architect and is not listed ~~in~~ on the ~~CAB's Board's roster~~ [license verification website](#), the building official should contact the ~~CAB~~ [Board](#) for verification.

(Ref.: ~~B&P Code~~ [BPC](#) Section 5536.2)

2. When plans have been filed by the original architect of record, may a building official accept changes to those plans ~~which~~ that are submitted by the supplanting architect or engineer?

A building official is only required to verify that the appropriate stamp and signature is on the documents before a permit is issued and that design changes are made and approved by the appropriate person.

(Ref.: ~~B&P Code~~ [BPC](#) Section 5536.25, [CCR, Title 16, Section 151](#), and [California Building Standards Code \(CBSC\), Title 24, §Section 106.4.4.1](#))

3. Is a building official required to notify an architect of record when another architect/engineer takes over a project, uses that architect's drawings, or makes changes?

No. The Architects Practice Act does not require this notification.

4. Is a building official liable if he or she informs the ~~CAB~~ [Board](#) of possible aiding and abetting ~~which~~ that later turns out to be unfounded and the architect takes legal action against the building official?

The law grants a qualified privilege to individuals who communicate, in good faith, to an official administrative agency concerning a possible violation of law. Further information on this subject should be obtained from the legal advisor for the building department.

(Ref.: Civil Code Section 47)

~~5. In some cases, the architect who designed a project may be located in another part of the state or out of state. If the architect does not wish to submit a minor design change in person, what procedure should the building official follow so as not to delay the project?~~

~~The Architects Practice Act does not address this situation. An architect will not be responsible for damage caused by changes which are not approved by the architect to his or her plans made by local government agencies. This question should be addressed by the legal advisor for the building department.~~

~~(Ref.: B&P Code Section 5536.25)~~

56. Sometimes an owner has separate contracts with an architect and the structural, civil, mechanical, and electrical engineers. No one discipline has overall coordination of the project, and a design change is required that will affect the work of all disciplines. May a building official require the project architect to ~~make and~~ sign for changes on his own work as well as others? Can the architect coordinate the work of the others?

No. The architect is only required to stamp and sign and take responsibility for his or her own documents. The same shall apply to each design professional. The building official should notify the owner that such coordination is required, and it is the owner's responsibility to arrange for proper coordination. An architect can coordinate the services and documents of others if he or she accepts the responsibility.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

67. May an architect certify that the construction of a project is in conformance with the design documents?

Yes, the architect may certify that the construction is in conformance, but the architect may choose not to do so.

(Ref.: [BPC Section 5536.26](#))

~~8. If a corrections list is returned by a building official to the owner of a structure and the owner makes the corrections, is this acceptable?~~

~~The statute does not specify who can make changes to the documents. If the changes relate to non-exempt projects, they should be made and signed by an appropriately licensed person before a permit for construction is issued. For changes to exempt projects, building officials should consult with the legal advisor to their department regarding potential problems.~~

~~(Ref.: B&P Code Section 5536.25)~~

79. If an architect asks or requests by telephone that a building official make required design changes ~~which that~~ the architect will approve later, should the building official make such changes?

No, not without prior written confirmation. It is not the building official's responsibility to make design changes.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

~~10. What procedure should a building official follow when the original architect is no longer the architect of record and design changes or corrections are required before a permit will be issued?~~

~~Notify the owner of the project. It is the owner's responsibility to notify the building official of a change in Architect of Record and to hire another qualified design professional to make, stamp and sign the design changes.~~

~~(Ref.: B&P Code Section 5536.25)~~

811. Is a building official liable if he or she approves the plan submittal and later learns that the architect who submitted the plans has a revoked or suspended license?

The ~~CAB~~[Board](#) does not determine liability. This is a question of civil law. Building officials should discuss this issue with their legal advisors. To avoid such problems, the law requires the building department to verify licensure prior to issuing any permit.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.2)

912. Should a building official make a design change to a drawing that requires design changes?

If a building official makes design changes to drawings without the authorization or approval of the architect, the architect will not be responsible for damages caused by those changes. The building official ~~would~~[could](#) be responsible for damage caused by his or her unauthorized changes. Building officials should discuss this issue with the legal advisor for their building department before undertaking any such action.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

1013. Are building departments required to maintain record copies of permitted drawings?

Yes, under certain circumstances. Refer to ~~Health and Safety Code~~[HSC](#) Section 19850, ~~which~~ ~~This code section~~ requires that drawings of certain categories of buildings be retained by local building departments.

1114. Are building officials required to give a copy of record documents to anyone who asks for them?

No. See ~~Health and Safety Code~~ [HSC](#) Section 19851, which specifies who may obtain copies of drawings and under what conditions.

1215. Do building officials need to verify licensure of persons signing plans for exempt projects?

~~No. Only if plans are being submitted or prepared by a licensed design professional.~~

(Ref.: ~~B&P Code~~ [BPC](#) Section 5536.2)

1316. When should verification of licensure be made?

Verification of licensure should be done at the time of initial submittal of the plans and specifications.

(Ref.: ~~B&P Code~~ [BPC](#) Section 5536.2)

~~17. What is a building official required to do when an architect has a dispute with an owner and the architect wants to withdraw plans previously submitted for plan check or notifies the building official that he or she disclaims any responsibility for the project and wants to remove his or her name from the submitted documents?~~

~~Consult the legal advisor for the building department as to what procedures to follow.~~

Business Associations

1. ~~What must an architect do when entering into an association with an unlicensed individual to jointly offer architectural services?~~

~~Prior to offering architectural services through such an association, the architect must agree in writing to be responsible for all architectural services offered and/or performed during the life of the association. The written agreement must provide the following information:~~

- ~~▪ The date when the association will begin.~~
- ~~▪ The approximate date when the association will be dissolved if such association is not to be a continuing relationship. The fact that the relationship is to be a continuing one, if applicable.~~
- ~~▪ The identity of the project for which the association is being formed if the relationship is not a continuing one.~~
- ~~▪ The name, address, telephone number, license number and signature of the architect.~~
- ~~▪ The name, address, telephone number and signature of the unlicensed individual(s) with whom the architect is associated.~~

~~Prior to engaging in the design phase of the project, the architect shall send a copy of the written agreement of association to the CAB.~~

~~All plans, specifications and other instruments of service and records resulting from the association shall be retained by the architect and made available for review for ten years from the completion date of the project.~~

~~Forms for filing the agreement of association are available by writing or calling the CAB office.~~

~~(Ref.: CCR Section 135)~~

Complaint Procedures

1. How is a complaint filed?

Anyone who believes there has been a violation of the Architects Practice Act may file a complaint with the [CAB Board](#). All complaints should be filed in writing. A complaint form is ~~included on page 63 or is~~ available ~~upon request on the Board's website, cab.ca.gov,~~ or the complainant may ~~write~~ [send](#) a letter ~~or email~~ to the [CAB Board](#) detailing the event(s) that led to the complaint ~~and attach~~ [with](#) copies of all documentation (plans, contracts, business cards, correspondence, etc.) to substantiate the complaint.

~~2. Is there an informal process available to building officials to address issues concerning documents submitted by a specific architect for plan check review and construction permitting?~~

~~On December 4, 1998, the CAB adopted a Plan Check Review Process & Evaluation Program that allows building officials to bring to the CAB's attention concerns they have regarding practice issues of a specific Architect without the filing of a formal complaint. A copy of the Review Request Form, which includes a complete description of the Program, is included on page 65.~~

23. How does someone find out if there is a complaint against an architect or an unlicensed individual?

Contact the [CAB Board](#). [Pursuant to its regulation on public information disclosure, The CAB the Board](#) will disclose ~~the number of pending complaints which have been reviewed by the CAB staff and indicate a probable violation of the CAB's licensing laws and/or regulations has occurred and are under investigation. The CAB will also disclose closed complaints which resulted in any~~ [disciplinary or enforcement actions taken against the person, including \(i.e., citations, accusations, statements of issues, stipulated settlement and disciplinary decisions\).](#) [The Board may only disclose complaint information if it is determined to have a direct effect on public safety.](#)

[\(Ref.: CCR, Title 16, Section 137\)](#)

~~4. What should architects or building officials do if they know that someone may be violating the Architects Practice Act?~~

~~Gather evidence to substantiate the accusation and forward all evidence to the CAB with a written complaint.~~

~~5. Does the CAB process complaints between architects and clients regarding contract or fee disputes?~~

~~Only if the dispute involves an alleged violation by the architect of the CAB's licensing laws and/or regulations. Otherwise the complainant is advised to seek legal counsel.~~

Contractors

1. Are contractors exempt from the Architects Practice Act?

A contractor may design what an unlicensed person may design under ~~B&P Code~~[BPC](#) Sections 5537 (exempt structures) and ~~B&P Code Section~~ 5538 as determined by the local building official.

On non-exempt structures, the contractor is limited to services specifically noted in ~~B&P Code~~[BPC](#) Section 6737.43 (Professional Engineers Act) ~~specifically; appropriately~~ licensed ~~mechanical~~ contractors ~~and licensed electrical contractors~~ may design mechanical and electrical systems, ~~respectively~~, in accordance with applicable construction codes if they also install those systems. If they do not install the systems and supervise the installation of the systems, they must have an architect or engineer design the systems.

In addition, a contractor may design systems that are required to complete the contracting services he or she has offered or contracted to perform. Such systems are considered temporary and must be removed once the project he or she has contracted to build is completed.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5537.2 and 6737.3)

2. May a licensed contractor perform design services under the direction of a structural or civil engineer for a non-exempt structure?

Yes, provided the contractor works under the responsible charge of the engineer, and the engineer signs all engineering documents prepared by the contractor.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

3. May contractors design non-exempt structures if they are going to build them?

No. Contractors may only design exempt buildings under ~~B&P Code~~[BPC](#) Section 5537 and nonstructural or nonseismic storefronts or interior alterations ~~which~~ that do not affect the structural system or safety of the building under ~~B&P Code~~[BPC](#) Section 5538. If they associate with an architect or engineer, contractors may prepare documents under the direct supervision of an architect or engineer. However, the architect or engineer must stamp and sign the documents.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

~~4. A general contractor hires mechanical and electrical contractors to design the mechanical and electrical systems for a non-exempt building with the understanding that the contractors will also install their systems. The drawings are approved and a construction permit is issued. During the construction phase, the general contractor hires other mechanical and electrical contractors to install the systems. Are the initial mechanical and electrical drawings valid?~~

~~No. B&P Code Section 6737.4 states that the respective mechanical and electrical systems must be installed by the licensed contractors who prepared the drawings for the systems.~~

~~(Ref.: B&P Code Section 6737.4)~~

45. May the building official delay the project until properly prepared documents are re-submitted for approval?

This question should be discussed with the legal advisor for the building department.

56. May licensed ~~mechanical and electrical~~ contractors prepare and sign drawings for their respective systems without supervision of an architect or engineer?

Yes. In ~~B&P Code~~[BPC](#) Section 6737.43 of the Professional Engineers Act, it states that appropriately licensed ~~mechanical and electrical~~ contractors may design ~~such~~[electrical or mechanical](#) systems for any building if they also install them.

(Ref.: ~~B&P Code~~[BPC](#) Section 6737.43)

67. May a general contractor prepare and sign drawings pertaining to mechanical, and electrical, and plumbing systems for non-exempt structures?

No. If the general contractor does prepare mechanical or electrical drawings, he or she must do so under the supervision of an architect or appropriately registered engineer. The architect or engineer must stamp and sign the drawings.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

Corporations

~~1.—May a corporation offer architectural services?~~

~~Yes.—A corporation can offer and perform architectural services provided the services are performed by or under the responsible control of an architect.—The architect must sign all instruments of service.~~

~~(Ref.: B&P Code Sections 5535, 5536.1(a) and CCR Section 134)~~

~~2.—Does the CAB license architectural firms or corporations?~~

~~The CAB licenses individuals only.—The Secretary of State registers professional corporations, including professional architectural corporations, as well as general corporations.—The Secretary of State’s address is: 1500 11th Street, Sacramento, California 95814, phone (916) 653-6814.~~

~~(Ref.: B&P Code Section 5551)~~

~~3.—What are the rules governing general corporations offering architectural services?~~

~~It is unlawful for a corporation, which is not a professional architectural corporation as defined by B&P Code Section 5610, to use a business name which includes as part of its title or description of services the term “architect,” “architecture,” or “architectural” unless it includes in its title or designation the name as licensed with the CAB of a licensed architect followed by the word architect.—All instruments of service must be signed by a licensed architect.—The designated architect must be an officer or an employee of the firm.~~

~~(Ref.: CCR Section 134(e))~~

~~For example, ABC Architecture, a general corporation, must include an architect’s name in its title or designation.—They might legally advertise the following way:~~

~~**ABC Architecture**
John Smith, Architect~~

~~4.—What distinguishes a professional architectural corporation from a general corporation?~~

~~Professional architectural corporations are required to limit their shareholders, officers, and directors to licensed architects.—In addition, the name of a professional architectural corporation and any name or names under which it may be rendering professional services must contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words “architectural corporation” or (2) the word “architect” or “architects” and wording or abbreviations denoting corporate existence.~~

~~(Ref.: B&P Code Sections 5610 and 5610.3)~~

Disasters

1. If a person's residence is damaged by a natural disaster, how can the homeowner obtain a copy of the plans?

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, an architect or other person who has prepared the plans used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the fact and the amount of damage for insurance purposes. The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.3)

2. Can the homeowner rebuild the property using the plans?

The plans cannot be used to rebuild any of the property without [a current permit and](#) the written consent of the architect or other person who prepared the plans. If written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.3)

3. If the homeowner cannot contact the original designer, can the building department provide a copy of the plans?

The building department can duplicate the plans under the provisions contained in ~~Health and Safety Code~~[HSC](#) Section 19851. Refer to that code section for details.

4. In the event of a declared disaster, what deterrents to unlicensed practice exist?

Only persons licensed by the ~~CAB~~[Board](#) may call themselves architects and provide architectural services. During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment. When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license by ~~writing or calling the CAB office~~[contacting the Board or visiting its website, cab.ca.gov.](#)

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.5)

5. Can architects perform structural inspections after an earthquake?

Yes. Architects may provide structural inspections at the scene of a declared national, state, or local emergency when acting voluntarily and at the request of a public official, public safety officer, or city or county building inspector who is acting in an official capacity.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.27)

6. What type of immunity is available to architects who provide inspection services for building departments?

California has a good Samaritan law for licensed architects, engineers, and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state, or local emergency caused by an earthquake. This law provides architects who provide these services with immunity from liability. This immunity applies only for an inspection that occurs within 30 days of the earthquake.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.27)

Engineers

1. Are engineers exempt from the Architects Practice Act?

Civil and structural engineers may provide “~~architectural~~ building design services” to the extent that they are included as part of the engineering services for which they are registered. Civil and structural engineers may not practice architecture, i.e., architectural design, unless it is a part of the civil or structural engineering services they are performing. Civil and structural engineers may not use the title “architect” or offer “architectural” services unless licensed by the [CAB Board](#).

(Ref.: ~~B&P Code~~ [BPC](#) Sections 5537.1, 5537.4, and 5537.5)

2. May a structural or civil engineer sign architectural drawings for non-exempt structures prepared by an unlicensed person who was not under their supervision even though the engineers prepared the structural drawings and calculations?

This question must be answered by the Board for Professional Engineers, ~~and~~ [Land Surveyors, and Geologists](#) (BPELSG). If an architect signed documents that were not prepared under his or her responsible control, the [CAB Board](#) would consider the act “aiding and abetting” under ~~B&P Code~~ [BPC](#) Sections 5582 and 5582.1.

(Ref.: ~~B&P Code~~ [BPC](#) Sections 5537.1 and 5537.5)

3. What are the structural and civil engineer’s limitations as to performing architectural design services?

There are none in the Architects Practice Act. The engineer may design any structure as long as the engineer adheres to the exemptions.

(Ref.: ~~B&P Code~~ [BPC](#) Sections 5537.1 and 5537.5)

Title 21 and 22 of the CCR are more restrictive and do set limitations as to what services architects ~~and~~, civil and structural engineers may perform. However, Title 21 and 22 are relevant only to state-regulated construction under the jurisdiction of the Division of the State Architect (DSA) and Office of Statewide Health Planning and Development (OSHPD).

~~4. May a structural or civil engineer sign mechanical or electrical engineering drawings if the engineer is not registered in those disciplines?~~

~~This question should be answered by the BPELS.~~

45. BPC Section 5537.4 ~~of the B & P Code~~ exempts all professional engineers. Does this mean that all registered professional engineers can design non-exempt structures?

No. Only structural and civil engineers are professional engineers authorized to design structures. Other professional engineers are exempt from the Architects Practice Act only to the extent that they practice the profession for which they are registered.

56. If a structural or civil engineer prepares and signs structural calculations as a consultant to an architect, must the engineer also prepare, stamp, and sign the structural drawings?

Not necessarily. If the calculations are given to the architect, who then prepares the structural drawings from the information provided in the calculations, only the architect is required to stamp and sign the drawings. The engineer is not required to over-sign documents prepared by the architect.

Exempt Buildings and Structures

1. What are exempt buildings or structures?

The Architects Practice Act defines exempt buildings or structures in ~~B&P Code~~[BPC](#) Section 5537 as follows:

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
 - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
 - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
 - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
 - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
- (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

2. What is ~~the CAB's~~[Board's](#) definition of “conventional framing”?

~~The CAB has approached this subject in the past and concluded that the phrase was borrowed from the UBC when the statute was written.~~ Since it appears in the ~~UBC &~~[CBS](#), which is written by building officials, the ~~UBC/~~[CBS](#) definition should be used.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537(b), ~~and~~ Title 24 of the ~~UBC and/or~~[CBS](#).)

3. What are the ~~CAB's~~Board's definitions of a “single family dwelling” and “multiple dwelling”?

(a) **Single-family Dwelling:** As defined in ~~B&P Code~~BPC Section 5537(a) and CCR, Title 16, Section 153-~~of the CCR~~, the term “single-family dwelling” means a free standing unattached dwelling of wood frame construction not more than two stories and basement in height. Such a single-family dwelling shall not share any common building components including, but not limited to, foundations, roofing and structural systems with any other structure or dwelling.

(b) **Multiple Dwelling:** As defined in ~~B&P Code~~BPC Section 5537(a) and CCR, Title 16, Section 153-~~of the CCR~~, the term “multiple dwellings” means a structure composed of no more than four attached dwelling units which share any common building components including, but not limited to, foundations, roofing and structural systems. Such multiple dwelling units shall be of wood frame construction and not more than two stories and basement in height, and as defined in the CBS.

~~4. Must contractors and builders who prepare plans for exempt structures sign the drawings they prepare if they own the structure?~~

~~If they are the owner, the B&P Code does not require the drawings to be signed.~~

~~(Ref.: B&P Code Section 5536.1)~~

~~45. If a lot contains an existing residence, may an unlicensed person prepare plans for a maximum four additional units as exempted under BPC Section 5537-~~of the B&P Code~~?~~

No. The maximum number of units that could be designed on the lot by an unlicensed person would be three additional units in any combination.

(Ref.: ~~B&P Code~~BPC Section 5537)

~~6. Is a roadside fruit and vegetable stand considered a non-exempt structure since the UBC classifies it as a business structure? Is an architect or engineer required to design it?~~

~~Whether an architect or engineer is required to design a fruit and vegetable stand is determined by the building official. If the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved, an architect or engineer can be required.~~

~~(Ref.: B&P Code Section 5537)~~

57. Is a “greenhouse” constructed of metal framing and glass considered an exempt structure if it is for personal use only?

No. The Architects Practice Act, ~~in B&P Code~~[BPC](#) Section 5537 refers only to wood-framed structures; therefore, metal-framed structures would not be considered exempt under the statute.

68. If an owner prepares drawings for his or her own exempt building, is he or she required to sign the drawings?

No. The statute requires only those who prepare drawings for others to sign them and, if licensed, to note their license number. However, the statute does not prohibit a building official from requiring the owner to sign the drawings.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

79. ~~B & P Code~~[BPC](#) Section 5537, which deals with exemptions, does not discuss site planning. Does this mean that an unlicensed person who prepares drawings for exempt structures must hire an architect to prepare the site plan drawings?

An unlicensed person may only do site planning to the extent that such planning does not involve activities that are subject to regulation by any licensing boards. For example, preparing grading and drainage plans are activities that require a license. Therefore, an architect or engineer would be required to prepare such plans for an exempt structure.

810. If an architect or engineer prepares and signs structural calculations for a portion of an exempt building and the building plans are prepared by the owner, must the architect or engineer sign the plans also?

The architect or engineer would only sign for that portion of the drawings that pertain to his or her structural design, not the entire set of drawings. The architect is only required to note that portion for which he or she is taking responsibility. The remainder of the drawings would be signed by the person who prepared them.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

911. May the building official require other exempt structures to be designed by an architect or engineer in addition to the noted agricultural and ranch buildings if it is deemed that such structures are an undue risk to public safety, health, or welfare?

Yes. The building official may require part or all of the structure to be designed by an architect or engineer. The ~~B&P Code~~[BPC](#) does not supersede the building official’s authority to protect the health, safety, and welfare of the public.

12. — Are wood decks exempt in B & P Code Section 5537?

~~Decks come in all sizes and shapes and are installed on all types of terrain. It is, therefore, left to the discretion of the local building official to determine if an architect or engineer is required to prepare and sign documents for such structures. The Architects Practice Act requires that any portion of an exempted structure that deviates from substantial compliance with the conventional framing requirements of the most recent California Building Code, shall be designed by an architect or engineer.~~

~~(Ref.: B&P Code Section 5537(b))~~

Interior Designers

1. Are interior designers licensed by the state?

No. They are not licensed by the state. ~~There is a statutory provision for self-certification through a private organization~~The State of California has a Title Act for certified interior designers under BPC Sections 5800-5812. Certification is not required for interior designers to practice in California.

(Ref.: ~~B&P Code~~BPC Sections 5800-5812)

2. What services may an interior designer provide?

Interior designers and any other unlicensed persons may design nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. Interior designers may not design any components that change or affect the structural system or safety of the building.

(Ref.: ~~B&P Code~~BPC Sections 5537 and 5538)

3. What may interior designers call themselves?

Interior designers may call themselves interior designers or designers. They cannot call themselves “architects,” “architectural designers,” ~~“registered interior designers~~architects,” or any other name that might mislead the consumer to think that they are licensed architects or registered building designers or otherwise certified, licensed, or registered by the sState.

An interior designer may not represent to the public that he or she is “state certified” to practice interior design. However, a person who has been certified by an interior design organization may refer to herself or himself as a “certified interior designer”.

(Ref.: ~~B&P Code~~BPC Sections 5800 and 5804)

No unlicensed person may use the term “architect,” “architectural,” or “architecture” or use the term “licensed” or “registered”.

(Ref.: ~~B&P Code~~BPC Section 5536)

4. May interior designers stamp exempt plans?

Yes. Unlicensed persons may stamp exempt plans as long as they do not use the legend “State of California” or words or symbols that indicate that they are licensed by the state.

(Ref.: ~~B&P Code~~BPC Sections 5536(b), 5802, and 5805)

Landscape Architects

1. May a registered landscape architect refer to himself or herself as an “architect”?

No. A landscape architect may not use the title “architect” without the word “landscape” unless he or she also holds an architect’s license.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.6)

2. Can landscape architects prepare site grading and site drainage plans?

Yes. A landscape architect can prepare landscape architectural site grading and site drainage plans.

3. What structures can landscape architects design if they perform site planning services?

Any exempt structures that unlicensed persons may design in accordance with ~~B&P Code~~[BPC](#) Section 5537 and exempt under the ~~UBC~~/[CBSC](#). If a structure requires engineering, it must be designed by an appropriately licensed or registered person.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537)

Land Surveyors

1. May a licensed land surveyor use the title “architect”?

No. A licensed land surveyor may not use the title “architect” unless he or she also holds an architect’s license.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.7)

2. Can licensed land surveyors prepare and sign site plans?

No. Land surveyors are limited to preparing and signing documents relating to their survey services, such as location of property lines or boundaries, topographic maps, site elevations, etc. They are not licensed to plan the improvements of a site.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.7)

Mechanic's Lien Laws

1. How does one find out about Mechanic's Lien Laws?

The ~~CAB~~Board does not respond to questions regarding [design professionals and mechanic's lien laws](#), as those laws are outside of the Board's jurisdiction. For information regarding [design professionals and mechanic's liens](#), review Civil Code sections 8300-8319 and 8400-8494, respectively, or ~~The individual may~~ consult an attorney, ~~or refer to~~ [Additional resources regarding liens may be found in](#) publications at a public library. ~~Another resource is the Contractor's License Law and Reference Book which may be obtained from: General Services Publications Unit, P.O. Box 1015, North Highlands, California 95660, (916) 928-4630 or by~~ [visiting the Contractors' State License Board's website at cslb.ca.gov](#).

Signature Requirement

1. May the title block for non-exempt buildings contain the words “drawings prepared by” and/or the name of the drafting service in addition to the name of the architectural firm?

Yes. There is nothing in the ~~statutes~~[Architects Practice Act](#) that prohibits this practice, but the architect responsible for their preparation must sign the drawings. If drawings were submitted without the architect’s stamp and signature, it would be of assistance to the ~~CAB’s~~[Board’s eEnforcement p](#)Program to have a copy of the title block sent to the ~~CAB office~~[Board](#).

(Ref.: ~~B&P Code~~[BPC](#) Sections [5536.1](#) and [5536.2](#))

2. In a set of plans submitted to a building official for approval and issuance of a permit, which sheets of the plans or drawings must be signed or stamped?

The ~~statutes do~~[Architects Practice Act does](#) not address this issue. The building official has the discretion to determine which sheets should be stamped and signed. However, standard practice in the profession is to stamp and sign every sheet and the cover page of specifications.

3. May an employee of an architect sign and stamp the plans or drawings or must the person whose name appears in the firm’s title block sign and stamp?

An employee may stamp and sign the documents if the employee is licensed by the ~~CAB~~[Board](#) and prepared or was in responsible control of their preparation.

- ~~4. A building department requires wet signatures on all documents. To expedite the approval of a design change on plans submitted for plan check, an architect proposes to FAX a design change to the building department. As a FAX, the architect’s signature on the design change is a reproduction. Is a building official required to accept such documents in lieu of those with a wet signature? If a building official does not accept these faxed documents, is he or she liable for delaying the project?~~

~~The CAB does not establish whether or not building departments should accept documents with reproduced signatures. Regarding liability for delaying a project, consult with your jurisdiction’s legal advisor.~~

~~(Ref.: B&P Code Section 5536.25)~~

- ~~45. Must the architect sign the documents at initial submittal?~~

~~The Architects Practice Act does not stipulate when the documents are to be stamped and signed. Many architects do not want to sign the initial submittal until plan checks have been made. The statute~~[BPC Section 5536.2](#) ~~requires building officials~~ to verify that the person who prepares the documents is properly licensed to do so. This can be done by ~~to obtaining~~ a signed statement that the person who prepared the documents is licensed to prepare such documents. ~~The CAB~~

~~believes that if an architect does not wish to sign initial submittal documents,~~ The building official ~~could~~can accept the signed statement in lieu of the stamp and signature at the time of initial submittal. After the plan check corrections have been made and before the permit for construction is issued, the drawings must be stamped and signed by the architect.

(Ref.: ~~B&P Code~~BPC Sections 5536.1 and 5536.2)

56. May building officials require architects to stamp and oversign a consultant's drawings?

No. Architects are only required to stamp and sign what they have prepared themselves or what others have prepared under their responsible control. Architects cannot be required to stamp and over-sign documents prepared by others, with the exception of DSA and OSHPD, which may require such "over-stamping" of documents prepared by consultants to satisfy state regulations for schools and hospitals.

(Ref.: ~~B&P Code~~BPC Section 5536.2)

67. Are reproduced signatures on documents acceptable?

~~The CAB believes that b~~Building officials may accept documents with a reproduced signature. ~~If building officials accept these documents, then it is recommended that building officials obtain the signed statement required in B&P Code Section 5536.2 and attach this statement to the documents as a permanent record.~~ Electronic stamps and signatures are commonly accepted in all business forums.

78. Must each page of a set of specifications or structural calculations be signed by the licensed person who prepares them?

An architect is required to sign his or her plans, specifications, and other instruments of service. The ~~CAB~~Board does not require that each page of a set of specifications and/or calculations ~~must~~ be signed by the architect.

(Ref.: ~~B&P Code~~BPC Section 5536.1)

89. Must the engineer who has prepared and signed structural calculations also sign the structural drawings if the structural drawings are prepared by a licensed architect?

No. The engineer only signs the documents ~~which~~that he or she has prepared. The architect signs the structural drawings that he or she prepared.

(Ref.: ~~B&P Code~~BPC Section 5536.1)

910. May non-exempt plans be signed by the unlicensed person who prepared the plans and the architect who is responsible for their preparation?

An unlicensed person may prepare plans for a non-exempt structure only under the responsible control of an architect. The unlicensed person, as well as the architect, may sign the plans; however, the only required stamp and signature is the architect's.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

1011. Are wet or dry signatures required on ~~exempt~~ plans?

The ~~B&P Code~~[Architects Practice Act](#) does not state what type of media is to be used; it only states that the drawings must be stamped and signed. ~~Accordingly, the building official can require wet or dry stamps and signatures on plans.~~

(Ref.: ~~B&P Code~~[BPC](#) Sections 5536.1 and 5536.2)

Stamp Requirement

1. Must architects stamp their plans, specifications, and other instruments of service prior to obtaining a building permit?

Yes.

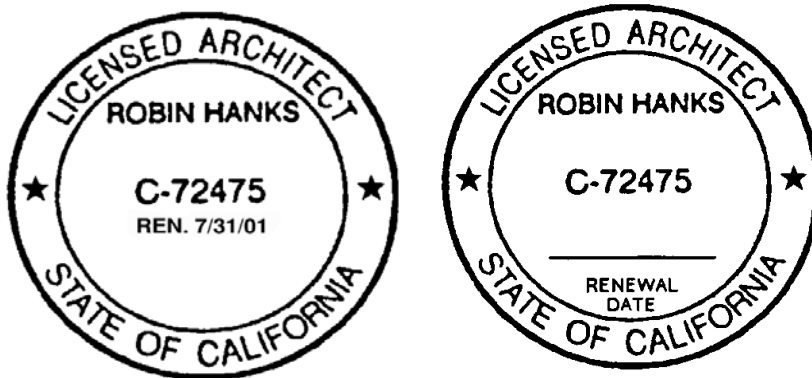
(Ref.: ~~B&P Code~~[BPC](#) Sections 5536.1 and 5536.2)

2. What must the architect's stamp look like, and what must it contain?

The Architects Practice Act ~~specifies~~[requires, at minimum](#), that the architect's stamp contain: (1) the legend "State of California"; (2) the term "licensed architect"; (3) the architect's name (as licensed with the ~~CAB~~[Board](#)); (4) the architect's license number; and (5) a means for noting the renewal date for the current license (last day of birth month and year). The renewal date may be hand written or typeset.

The stamp must be ~~of at least one inch, -1"-~~[but not more than minimum--2"two inches,](#) ~~maximum-in~~ diameter [and](#) circular [in](#) shape. The design of the circle may include solid lines (thin or thick) or broken lines, such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the circle. Embellishments (stars, graphic designs) are also acceptable so long as the stamp is legible. The stamp shall not be of the embossing type. Provided below are basic examples of recommended formats for a California architect's stamp. Stamps can be ordered from any source - stationery stores, business supply houses, rubber stamp manufacturers, and print shops.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1(b) and CCR, [Title 16](#), Section 136)



REN. Refers to Renewal Date

~~Title 24 (State Building Code)~~

~~1. —Where can an individual obtain copies of State Building Code (Title 24)?~~

~~The complete set of Title 24, consisting of the State Building, Electrical, Mechanical, Plumbing and specialty Codes may be obtained at specialty book stores specializing in construction documents or through:~~

~~International Conference of Building Officials
5360 Workman Mill Road
Whittier, CA 90601-2298
(562) 699-0541
1-(800)-284-4406
www.icbo.org~~

Unlicensed Individuals

1. What may an unlicensed individual design?

- A. ~~An Un~~licensed individuals may design exempt buildings or structures. The Architects Practice Act defines exempt buildings or structures in ~~B&P Code~~[BPC](#) Section 5537 as follows:
- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
 - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
 - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
 - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
 - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
 - (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.
- B. Unlicensed individuals may design nonstructural or nonseismic alterations or additions as defined in the Architects Practice Act, ~~B&P Code~~[BPC](#) Section 5538.

2. What titles may unlicensed individuals use?

Unlicensed individuals cannot call themselves “architects,” “architectural designers,” or any other confusingly similar title that might indicate to the public that they are a licensed architect, architectural designer, ~~or are~~ qualified to engage in the practice of architecture, ~~or are an architectural designer~~.

(Ref.: ~~B&P Code~~BPC Section 5536(a))

~~3. May an unlicensed person prepare and sign plans for the interior of a building and then have an architect prepare and sign drawings of certain constructions within these plans? Must the architect sign all the drawings?~~

~~The unlicensed person should only sign the documents prepared by him or her and the architect should only stamp and sign the documents the architect prepared. Architects can not stamp and sign the documents of others unless they were prepared under the responsible control of the architect.~~

~~(Ref.: B&P Code Sections 5536.1, 5536.2 and 5538)~~

34. Must the design of a seismic bracing system required for raised computer floors be done by an architect or engineer?

Yes. Plans for seismic bracing systems are considered a seismic alteration and should be designed and signed by architects or engineers. ~~It is also important to consider perimeter walls that enclose the raised floor. The design of the walls should be analyzed for their ability to withstand lateral loads.~~

(Ref.: ~~B&P Code~~BPC Section 5538)

~~5. May unlicensed individuals prepare and sign energy calculations for non-exempt buildings when tenant improvements are made?~~

~~The State Energy Commission states that only appropriately licensed or registered persons can sign forms ENV-1, LTG-1 and MECH-1.~~

46. In BPC Section 5538, of the ~~B&P Code~~ interior alterations and additions are considered exempt. Does the word “additions” apply to exterior work, as well as interior, or is it meant to apply only to interior additions?

~~B&P Code~~BPC Section 5538 discusses interior additions only. Exterior additions are discussed in ~~B&P Code~~BPC Section 5537.

57. Does the replacement of a fire rated door require an architect or engineer to approve the replacement or write a specification for the replacement?

The local building official should make this determination.

68. May unlicensed individuals design and sign plans for handicap disabled access systems?

Yes. Unlicensed individuals may design systems, including handicap disabled access systems, that are nonstructural and nonseismic in nature and that do not affect the safety of the structure, provided that the design of those systems is not restricted by law to registered or licensed individuals.

(Ref.: B&P CodeBPC Section 5538)

79. Does the CABBoard provide building departments with specific criteria as to what interior components affect the safety of a building or its occupants?

No. Local building departments determine such criteria.

810. May an unlicensed individual design, plan or prepare instruments of service for store fronts or interior alterations?

Yes. Unlicensed persons may prepare and submit plans for nonstructural or nonseismic interior alterations or additions, provided such alterations do not change or affect the structural system or safety of the building.

(Ref.: B&P CodeBPC Section 5538)

911. May an unlicensed individual design interior alterations or additions for non-exempt structures?

Unlicensed individuals may prepare and sign plans for nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. However, an unlicensed individual may not prepare and sign plans for any components affecting the structural system or safety of any building as determined by the local building official.

(Ref.: B&P CodeBPC Section 5538)

1012. May unlicensed individuals prepare and sign plans for the interiors of any type of building? Are there square foot limitations?

Unlicensed individuals may prepare and sign interior designs for any type of building subject to the approval of the building official. There are no square footage limitations imposed by the Architects Practice Act; however, some building departments do set square footage limitations applicable to design services by unlicensed individuals.

(Ref.: B&P CodeBPC Section 5538)

~~13.— What is considered an exempt nonstructural storefront?~~

~~The CAB believes that a storefront, which does not require wind calculations and structural calculations to verify the stability of the installation, would qualify as an exempt nonstructural storefront. Each installation must be judged individually by the building official. If the storefront installation requires structural calculations, it is not exempt. However, if only glazing is replaced, then an architect or engineer may not be required to design the system.~~

~~(Ref.: B&P Code Section 5538)~~

1114. May unlicensed individuals design and sign mechanical, electrical, and plumbing systems?

No. Such systems must be designed and signed by appropriately licensed or registered design professionals, or appropriately licensed contractors as allowed by the Professional Engineers Act.

(Ref.: ~~B&P Code~~BPC Sections 5537.2, 5537.4, and 6737.4~~3~~)

~~15.— If one occupancy is being converted into a more restrictive occupancy, is an architect or engineer required to prepare and sign the documents?~~

~~Not necessarily. The building official should make the decision based on the scope of work required to convert the occupancy.~~

~~(Ref.: B&P Code Section 5538)~~

~~16.— Are full height, non-bearing, non-rated partitions considered components that affect the safety of the occupant?~~

~~The CAB believes that the addition, relocation or removal of full height, non-bearing, non-rated partitions could change or affect the structure and/or the safety of a building. Each situation must be judged within its specific circumstances and thus the building official must decide whether such partitions would affect the safety of the building.~~

~~(Ref.: B&P Code Section 5538)~~

1217. What criteria does the CABBoard use to determine what it considers the “safety of a building”?

~~The CAB has no specific criteria. For regulations dealing with those elements that affect the safety of a building and its occupants, s~~See the California Building Standards Code. The local building official should determine which components of building systems affect safety and are required to be designed by an architect or engineer.

1318. May unlicensed individuals prepare specifications for non-exempt structures?

Unlicensed individuals may prepare specifications for non-exempt structures only under the responsible control of an architect or engineer. The architect or engineer is required to [stamp and sign](#) the specifications.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5535.1 and 5536.1)

~~**19. Suspended ceilings do not add to the structural stability of a building but require seismic bracing. Is an architect or engineer required to design suspended ceilings?**~~

~~The CAB believes that seismic components should be designed by architects or civil and structural engineers. However, some building officials allow such ceilings to be designed by unlicensed individuals if they do not exceed certain square foot limitations.~~

1420. May unlicensed individuals alter exterior wall, door, and window configurations on non-exempt structures so that they are coordinated with new interior construction?

No. The ~~B&P Code~~[Architects Practice Act](#) does not allow an unlicensed individual to prepare and sign plans and specifications for the alteration of exterior walls, doors, or windows except for nonstructural or nonseismic alterations to storefronts as determined by the local building official.

(Ref.: ~~B&P Code~~[BPC](#) Section 5538)

~~Violations of the Architects Practice Act~~

~~1. Who may be prosecuted for violations of the Architects Practice Act?~~

- ~~▪ **Prosecutions:** The CAB may prosecute all persons guilty of violating the provisions of Chapter 3, Division 3 of the Business and Professions Code. Except as provided by Section 159.5, the CAB may employ the inspectors, special agents, investigators and staff it deems necessary to carry out the provisions of this chapter.~~

~~(Ref.: B&P Code Section 5525)~~

- ~~▪ **Injunctions:** Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which will constitute an offense against Chapter 3, Division 3 of the Business and Professions Code, the superior court of the county in which the offense has occurred or is about to occur, on application of the CAB, may issue an injunction or other appropriate order restraining such act or practice.~~

~~(Ref.: B&P Code Section 5527)~~

~~The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.~~



CALIFORNIA ARCHITECTS BOARD

400 R STREET, SUITE 4000, SACRAMENTO, CALIFORNIA 95814-6238

Telephone: (916) 445-3393 Fax: (916) 445-8524

E-mail: cab@dca.ca.gov Web: cab.ca.gov



CONSUMER COMPLAINT FORM

1. SUBJECT (Person Complaint is Against)

Form with fields: Last Name, First Name, Middle Name, Business Name, Business Address, City, State, Zip Code, Business Phone, Home Phone (If Known), Architect License Number (If Known)

2. COMPLAINANT (Person Making the Complaint)

Form with fields: Last Name, First Name, Middle Name, Address, City, State, Zip Code, Business Phone, Home Phone, Best Time of Day to Contact You

3. Did you have a contract or letter of agreement with the subject? YES NO (If yes, please attach a copy.)

4. Have you discussed your complaint with the subject? YES NO

5. Have you contacted an attorney regarding this matter? YES NO If so, provide your attorney's name, address and phone number.

6. Have you filed a claim in any court regarding this complaint? YES NO If so, name court: and indicate hearing date, if scheduled:

7. What do you want the person or company to do to satisfy your complaint?

8. Describe the nature of your complaint on the next page



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PLAN CHECK REVIEW PROCESS & EVALUATION PROGRAM

for

BUILDING OFFICIALS & ARCHITECTS

PROGRAM INTENT:

The California Architects Board (CAB) is offering this program to aid building officials and architects in the resolution of questions and issues concerning documents submitted by architects to the building official for plan check review and construction permitting.

Upon the request of a building official and/or an architect, the CAB will provide review of document submittals with reoccurring issues of code or procedure non-compliance, of document completeness and/or coordination, scope of practice and signature/stamp requirements. The program will not address specific code issues or usurp the regulatory authority of the building official.

The program is intended to assist both parties in understanding and interpretation of the standard of care as it applies to the Architects Practice Act and their respective responsibilities. The program goals are to resolve or prevent formal complaints, to prevent reoccurring submittal problems or deficiencies, and to improve communication and understanding between architects and building officials.

REQUEST FOR REVIEW:

A building official and/or an architect may request a review by the CAB's architect consultant (or other representatives) via fax, e-mail, letter or phone. The consultant will review the documents and the issues identified by the request, and if appropriate, will meet with both parties at their local building department. The consultant will advise both parties of the findings and may, in some cases, suggest improvements to avoid similar situations in the future.

REVIEW REQUEST FORM:

Review Requested by: Building Official _____ Architect _____ (Check One) Date: _____

Building Official: _____ Phone: _____

Jurisdiction/Agency: _____

Architect: _____ Phone: _____

Issues for Review: _____

CAB Architect Consultants:

Lawrence P. Segrue, FAIA @ larry_segrue@dea.ca.gov & Robert L. Carter, AIA @ bob_carter@dea.ca.gov

Telephone: (800) 991-2223

**AGENDA ITEM N.3: REVIEW AND POSSIBLE ACTION ON 2019-2021
STRATEGIC PLAN OBJECTIVES TO:**

**a. EDUCATE ARCHITECTS REGARDING THEIR RESPONSIBILITIES
UNDER BUSINESS AND PROFESSIONS CODE (BPC) SECTION 5535.1
(RESPONSIBLE CONTROL) AND CALIFORNIA CODE OF
REGULATIONS (CCR) SECTION 151 (AIDING AND ABETTING) TO
PROTECT CONSUMERS FROM UNLICENSED PRACTICE**

Summary

The Board's 2019-2021 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee to educate architects regarding their responsibilities under Business and Professions Code (BPC) section 5535 "responsible control" and California Code of Regulations (CCR) section 151 "aiding and abetting," to protect consumers from unlicensed practice.

In 2019, the Board's Enforcement Unit has received complaints of traditional aiding and abetting of unlicensed practice, such as a licensee's brother using a forged stamp to submit plans, and a licensee who admitted to selling his stamp and signature to unlicensed individuals.

However, the majority of the Board's responsible control-related cases are coming from the new business model of Design-Build firms. Expansion of the Design-Build model in California has resulted in confusion among architects, contractors, and business owners regarding the necessary involvement of licensed architects in a firm's corporate structure and the level of control that each are required to maintain over architectural designs.

Typically, a licensed contractor starts a business offering full-service design, engineering and construction, then they contract out the non-exempt architectural services. This in itself is not prohibited by the *Architects Practice Act*, but a problem arises when the contractor realizes they can make more by advertising their association with architects, and maybe even by naming their company XYZ Building and Architecture.

CCR section 134 prohibits the use of the word architect in a business name or description of services unless there is a licensed architect who is either a part-owner, an officer or an employee in management control of the professional services that are offered and provided by the business entity.

This can potentially lead to aiding and abetting for the architect, because they do not have management control over the company's exempt projects, yet they allow the company to use their name to advertise architectural services.

For the consumer, this is a problem, because they often do not even know who their architect is. The architect has a contract with the company, and the company has a contract with the consumer. The architect believes that the company is their client and may even consider themselves to be the “business entity through which they provide architectural services,” for the purposes of the reporting requirements of BPC section 5588. In these cases, the Board cannot readily determine whether an architect is in responsible control over, or even associated with, a given project.

As a result, the Board’s Enforcement Unit has received an increase in complaints involving companies advertising architectural services without having a licensed architect in responsible control of the designs. Consumers are impacted because they do not have a contract directly with the architect who might be working on their project, and so have limited recourse in the case of architectural misconduct.

Recommendation(s)

On August 1, 2019 Board staff recommended and the REC unanimously approved publishing an Informational Bulletin (see attachment 1) describing recent case analyses and the laws covering issues of responsible control and aiding and abetting. With the Board’s approval, the article could be included on the Board’s website, and sent to licensees, building officials, design-build organizations, and consumers via our subscriber lists, and social media.

The REC also heard preliminary ideas from the enforcement unit regarding professional standards that would address these issues, such as regulations that would better define the architect’s “client” as the owner/consumer so that the 1) architect would have to be a party to the contract between their design-build firm and the consumer, 2) contract would have to be compliant with BPC section 5536.22, and 3) architect would be required to report their association with the design-build firm to the Board.

Action Requested

The Board is asked to approve publication of the Informational Bulletin and consider the need for regulations that would clarify the relationship between architects and design-build firms.

Attachment(s)

1. Informational Bulletin: Responsible Control Within the Design-Build Model (Draft)
Architects Practice Act Sections Involving Responsible Control

Agenda Item N.3.a - Attachment 1

[Draft]

Informational Bulletin: Responsible Control Within the Design-Build Model

Recent expansion of the design-build business model in California has resulted in confusion among architects, contractors, and business owners regarding the necessary involvement of licensed architects in a firm's corporate structure and the level of control each are required to maintain over architectural designs. This article addresses the legal and professional responsibilities of owners and architects associated in a design-build relationship.

The Architects Practice Act (Act) does not prevent a corporation from contracting out architectural services, as long those services are under the responsible control of a licensed architect (BPC, § 5535.3). "Responsible control" means that level of control over the content of architectural instruments of service during their preparation that is ordinarily exercised by an architect applying the required professional standard of care. (Business and Professions Code (BPC), § 5535.1.

If a business includes in its name or description of its services the term "architect," "architecture," or "architectural," or any abbreviations or confusingly similar variations thereof, that business must have a licensed architect who provides management control of the professional services that are offered and provided by the business or is an owner, part-owner, officer, or an employee of the business. (California Code of Regulations (CCR) § 134, subs. (a).) Furthermore, all of the professional services offered by that business must be offered and provided by or under the responsible control of an architect. (CCR, § 134, subs. (b).)

If an architect signs instruments of service which have not been prepared by them, or under their responsible control, or has permitted their name to be used for the purpose of evading the Act, the architect is subject to disciplinary action. (BPC, § 5582.1; CCR, § 151.)

The Board's Enforcement Unit has seen these factors come into play, for example, when a business named "Acme Architecture" contracts out, on a project-by-project basis, with one or more licensed architects. Under BPC section 5535.3 and CCR section 134, such a business can contract out the work, but it is not allowed to use the term "architecture" in its name or advertising.

Many architects believe that they can maintain such an arrangement and have no responsibility for the company's exempt projects. However, if the business includes the term "architecture" in their name or advertises that they provide architectural services, the architect must at least be an "employee" (as defined by the Internal Revenue Service) and must be in management control over all of that company's professional services.

If an architect allows their name to be used by such a business without being in management control of all their professional services, the owner of the business is subject to citation under BPC section 5536 and CCR section 134, while the architect is subject to disciplinary action under BPC section 5582.1 and CCR section 151.

Agenda Item N.3.a - Attachment 2

Architects Practice Act Sections Involving Responsible Control

Business and Professions Code

Section 5535.1 Responsible Control Defined

The phrase "responsible control" means that amount of control over the content of all architectural instruments of service during their preparation that is ordinarily exercised by architects applying the required professional standard of care.

Section 5535.3 Corporation Responsible Control

This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects' professional services are offered and provided under the responsible control of a licensed architect or architects.

Section 5536.22 Written Contract

(a) An architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. That written contract shall be executed by the architect and the client, or his or her representative, prior to the architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following items:

- (1) A description of services to be provided by the architect to the client.
- (2) A description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties.
- (3) The name, address, and license number of the architect and the name and address of the client.
- (4) A description of the procedure that the architect and the client will use to accommodate additional services.
- (5) A description of the procedure to be used by either party to terminate the contract.

(b) This section shall not apply to any of the following:

- (1) Professional services rendered by an architect for which the client will not pay compensation.
- (2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.
- (3) If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.
- (4) Professional services rendered by an architect to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

Section 5558 Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements

Each person holding a license to practice architecture under this chapter shall file with the board his or her current mailing address and the proper and current name and address of the entity through which he or she provides architectural services. For purposes of this section, "entity" means any individual, firm, corporation, or limited liability partnership.

Section 5582 Aiding Unlawful Practice

The fact that the holder of a license has aided or abetted in the practice of architecture any person not authorized to practice architecture under the provisions of this chapter, constitutes a ground for disciplinary action.

Section 5582.1 Signing Other's Plans or Instruments; Permitting Misuse of Name

(a) The fact that the holder of a license has affixed his or her signature to plans, drawings, specifications, or other instruments of service which have not been prepared by him or her, or under his or her responsible control, constitutes a ground for disciplinary action.

(b) The fact that the holder of a license has permitted his or her name to be used for the purpose of assisting any person to evade the provisions of this chapter constitutes a ground for disciplinary action.

California Code of Regulations

Section 134 Use of the Term Architect; Responsible Control within Business Entity

(a) Use of the Term Architect: It shall be unlawful for any person to use a business name that includes as part of its title or description of services the term "architect," "architecture," or "architectural," or any abbreviations or confusingly similar variations thereof, unless that person is a business entity wherein an architect is: (1) in management control of the professional services that are offered and provided by the business entity; and, (2) either the owner, a part-owner, an officer or an employee of the business entity.

(b) Responsible Control within Business Entity: Where a person uses a business name that includes as part of its title or description of services the term "architect," "architecture," or "architectural," or any abbreviations or confusingly similar variations thereof, all of the professional services offered and provided by that person are to be offered and provided by or under the responsible control of an architect.

(c) Definitions of Terms Used in this Section:

(1) The term "professional services" shall be given the same meaning as defined in Business and Professions Code section 5500.1.

(2) The term "management control" shall mean general oversight of the professional services offered and provided by the business entity.

(3) The term "responsible control" shall be given the same meaning as defined in Business and Professions Code section 5535.1.

(4) The term "business entity" shall mean any sole proprietorship, firm, corporation, partnership, limited liability partnership, or alliance formed by written agreement to practice architecture including on a single project or on a series of projects.

(5) The term "person" shall be given the same meaning as defined in Business and Professions Code section 5535.

(6) The term "architect" shall be given the same meaning as defined in Business and Professions Code section 5500.

Section 151 Aiding and Abetting

(a) For purposes of Sections 5582 and 5582.1 of the code, aiding and abetting takes place when a California licensed architect signs any instrument of service which has been prepared by any person who is not: (1) a California licensed architect or civil engineer or structural engineer, or (2) a subordinate employee under his/her immediate and responsible direction, or (3) an individual, who is associated by written agreement with the architect and who is under the architect's immediate and responsible direction as described in subsection (b) of this section.

(b) The requirements of "immediate and responsible direction" as used in this section shall be deemed to be satisfied when the architect: (1) instructs the person described in subsection (a) of this section, in the preparation of instruments of service, and (2) the architect has exercised the same judgment and responsibility in reviewing all stages of the design documents and other phases of the work as required by law, and which would normally be exercised if he/she personally performed the required tasks

**AGENDA ITEM N.3: REVIEW AND POSSIBLE ACTION ON 2019-2021
STRATEGIC PLAN OBJECTIVES TO:**

**b. COLLABORATE WITH WEBSITES TO RESTRICT ADVERTISEMENTS FROM
UNLICENSED ENTITIES**

Summary

The Board's 2019-2021 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to collaborate with websites to restrict advertisements from unlicensed entities.

Unlicensed advertising is one of the most common complaints received at the Board. Oftentimes the Board receives complaints about unlicensed persons describing themselves as architects and/or offering to provide architectural services on numerous websites.

Business and Profession Code section 5536(a), states that an unlicensed person may not advertise or put out any device that might indicate to the public that the person is an architect or qualified to engage in the practice of architecture.

The Board's Enforcement staff reviewed a sample of advertisement complaints to determine the most common websites used for advertising (see attachment).

The control the user has on each website varies. Some websites allow users to make modifications, while others do not. Board staff created profiles on these websites to review what information users may control. In instances where there is no user control, the unlicensed person is asked to submit a request to remove that information to the offending website.

Board staff contacted Yelp and Houzz about modifying their websites to make it less likely unlicensed persons inadvertently advertise themselves as architects. Staff received generic responses stating they would have their teams consider implementing the Board's request.

On August 1, 2019, the REC discussed the objective and staff's research and approved three recommendations.

Recommendation(s)

The REC voted to recommend to the Board the following:

- 1) Staff collaborate with DCA legal counsel to create a standard advisory letter to send to websites that advertise unlicensed persons as architects;
- 2) Adopt a regulation to require an architect to post their license number on advertisements to mitigate unlicensed practice; and
- 3) Continue to make requests to various websites to modify their websites to restrict unlicensed advertisements.

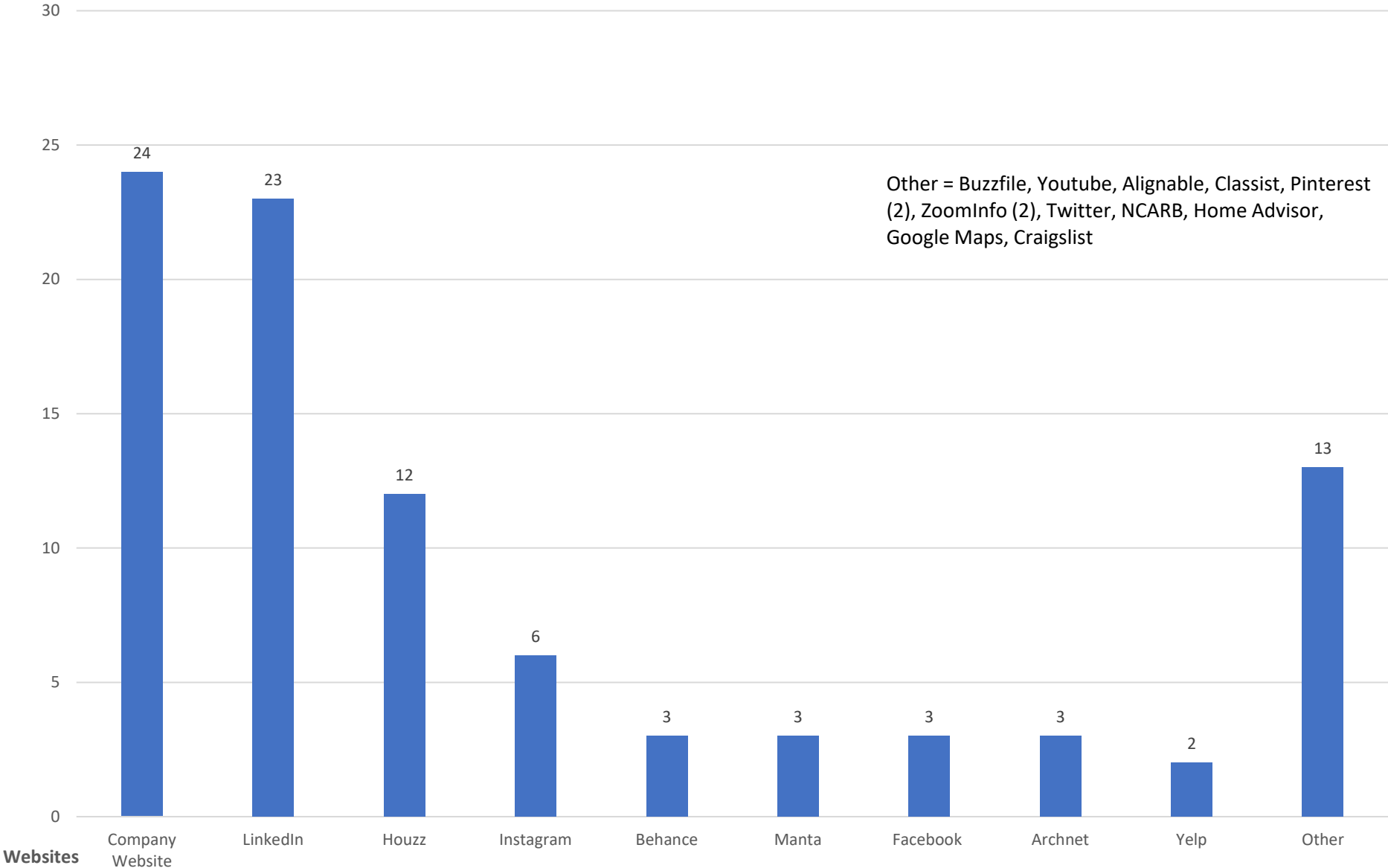
Action Requested

The Board is asked to consider the REC's recommendations.

Attachment(s)

Advertisement Violations on Websites

Advertisement Violations on Websites



Source: Review of 48 Advertisement Complaints from December 2018 to May 2019

AGENDA ITEM O: REVIEW OF FUTURE BOARD MEETING DATES

Summary

An updated schedule of meetings and events for the remainder of 2019 are provided to the Board.

| <u>Date</u> | <u>Meeting</u> | <u>Location</u> |
|-----------------------|---|-----------------------------|
| September 5 | Landscape Architects Technical Committee (LATC) Meeting | Sacramento (Teleconference) |
| September 11 | Board Meeting | Pleasant Hill |
| September 26-28 | Council of Landscape Architectural Registration Boards Annual Meeting | St. Louis, MO |
| October 22 | Professional Qualifications Committee Meeting | Sacramento (Teleconference) |
| November 8 | LATC Meeting | Sacramento |
| <i>November 11</i> | <i>Veterans Day</i> | <i>Office Closed</i> |
| November 15-18 | American Society of Landscape Architects Conference on Landscape Architecture | San Diego |
| <i>November 28-29</i> | <i>Thanksgiving Holiday</i> | <i>Office Closed</i> |
| December 11 | Board Meeting | Los Angeles |
| <i>December 25</i> | <i>Christmas Day</i> | <i>Office Closed</i> |

AGENDA ITEM P: CLOSED SESSION – PURSUANT TO GOVERNMENT CODE (GC) SECTIONS 11126(a)(1), (c)(3) AND (f)(4) AND 11126.1, THE BOARD WILL MEET IN CLOSED SESSION TO:

- 1. Review and Possible Action on February 27, 2019 Closed Session Minutes**
- 2. Deliberate and Vote on Disciplinary Matters**
- 3. Perform Annual Evaluation of its Executive Officer**
- 4. Adjourn Closed Session**