

**TITLE 16. CALIFORNIA ARCHITECTS BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: The California Architects Board (Board) has not scheduled a hearing on the proposed changes. However, a hearing will be scheduled upon request by any interested party if the request is received no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: Architect Fees

Section(s) Affected: California Code of Regulations (CCR), Title 16, Division 2, Article 10, Section 144¹

Background and Problem Statement:

Statutory authority: The California Architects Board (Board) enforces the Architects Practice Act and licenses individuals in California as architects. The Board's highest priority when exercising its licensing, regulatory, and disciplinary authority is the protection of the public health, safety, and welfare, as mandated by Business and Professions Code (BPC) section 5510.15. The Board is authorized by BPC section 5526 to promulgate regulations as may be necessary and proper.

[BPC section 5604](#), subdivision (c) establishes the fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. Currently the original license fee is three hundred dollars (\$300). BPC section 5604, subdivision (d) establishes the fee for an original license is three hundred dollars (\$300). If the license is issued less than one year before the date on which it will expire, the fee is one hundred fifty dollars (\$150). BPC section 5604 subdivision (f) establishes that the renewal fee may not exceed four hundred dollars (\$400). Currently the renewal fee is three hundred dollars (\$300).

Existing regulations: [CCR section 144](#) provides a list of the fixed fees associated with application, examination, and licensure with the Board.

Background: The Board's funding source is classified as special funds and as such, the Board's revenues and expenditures are generated from regulating the architect profession. Pursuant to BPC section 5604, the Board has the statutory authority to collect fees to carry out its consumer protection mandate, support the functions of the Board as they relate to regulating architects, and maintain an adequate balance in its

¹ All CCR references are to title 16 unless otherwise noted.

contingency fund. The fees of the Board are required to be sufficient to support the functions of the Board.

The fees, as they are currently set, do not adequately support the functions of the Board to regulate the profession. The Board currently has a fiscal structural imbalance and will be incurring additional cost pressures in the near future due in part from an ongoing information technology upgrade and other typical annual cost increases. The Board's fund is currently projected to become insolvent in 2023-24.

This proposal will increase the Board's fees to their statutory maximums and will help to better align the Board's revenues and expenditures. However, the proposed increases will not fully eliminate the structural imbalance and will only postpone insolvency. As a result, the Board will be required to take further action(s) in the near future to ensure it has sufficient resources to maintain ongoing operations.

In 2018, the Board prepared information about the budget for its Sunset Review Report to the Legislature. At that time, the Board's projected reserve was 16.4 months in Fiscal Year (FY) 2017/2018. Since then, costs attributed to personnel, Division of Investigation (DOI), AG, and other general costs have climbed. At the December 10, 2021 Board meeting, DCA's Budget Office (BO) presented a budget update covering 2020-2024 and analyses of the [Board's fund condition](#) and concluded that, with the current fee schedule, the fund would be insolvent by FY 2023-2024. During the February 18, 2022, Board meeting, the Board approved the proposed fee increases.

Since the 2018 Sunset Report, Board staff has worked closely with the BO to monitor the Board's funds. During the past five years the Board's licensing population has increased by 4.88 percent. In 2018, the Board was authorized 24.9 civil servant positions and in 2021, this number decreased to 23.8. There have been increases in personnel services including general salary increases negotiated by the State and mandated health care and retirement contributions. Additionally, intradepartmental pro rata costs have increased, costs which include the Division of Investigation (DOI), Office of Professional Examination Services, Office of Attorney General (AG), and BreEZe database costs.

For example, the rates DCA has to pay for the services of the AG and the Office of Administrative Hearings (OAH) have increased over the last few years.

- Attorney General (AG) hourly rates for an Attorney, Legal Assistant, and Auditor were recently increased by 29%, 71%, and 97% respectively since 2016-17 (from \$170 to \$220 for Attorneys, \$120 to \$205 for Legal Assistants, and \$99 to \$195 for Auditors per hour).
- Office of Administrative Hearing (OAH) hourly rates for an Administrative Law Judge (ALJ) have increased by 46% since 2016-17 (from \$229 to \$334 per hour).

These costs are part of the Board's Enforcement program. The Board utilizes the services of the AG's Office when seeking to impose formal discipline on a licensee through a license suspension or revocation. OAH serves as the neutral party who hears cases between licensees and the Board.

The Board has been able to absorb the increased workload associated with the increase in licensees without additional staffing. However, beginning in FY 20/21 the Governor imposed a permanent 5% budget decrease and the Board can no longer handle the costs associated with regulating the profession with its current fiscal resources and adequately protect the public.

This regulatory proposal will amend existing regulations to raise the original and renewal fees for architects. This proposal is necessary to ensure sufficient resources are available to meet the Board's consumer protection mandate and maintain Board operations. With this fee increase, the Board will be able to investigate consumer complaints, continue its enforcement endeavors, license new professionals in a timely manner, evolve as a regulatory body as the profession advances, and educate the profession and consumers about safe practice standards.

Specific Purpose and Rationale:

Amend CCR section 144: The proposed regulatory proposal amends [CCR section 144](#) to increase the fee for an original license to four hundred dollars (\$400) and the biennial license renewal to four hundred dollars (\$400). If the license is issued less than one year before the date on which it will expire, the proposal would increase the fee to two-hundred dollars (\$200).

The Board determined the fee increases would increase the Board's revenue by an approximately \$960,000 per year, which is warranted to cover existing expenditures for complaint investigations, enforcement endeavors, licensing, regulating, and educating, and help to reduce the Board's structural imbalance.

This regulatory proposal will increase the fees as follows:

- Increase the fee for an original license from \$300 to \$400
- Increase the fee for an original license that is issued less than one year before the date on which it will expire from \$150 to \$200.
- Increase the biennial renewal fee from \$300 to \$400

Anticipated Benefit / Rationale: Adopting this regulatory proposal will ensure sufficient resources are available to meet the Board's consumer protection mandate and maintain Board operations. With this fee increase, the Board would be able to investigate consumer complaints, continue its enforcement endeavors, license new professionals in a timely manner, evolve as a regulatory body as the professions advance, and educate the profession and consumers about safe practice standards.

16 CCR 144, subdivision (d):

Purpose: This proposal amends the original license fee to four hundred dollars (\$400) and amends the fee for a license issued less than one year before the date on which it will expire to two hundred (\$200) dollars. The purpose is to provide notice to those

interested in obtaining a license in architecture the fees associated with that licensure.

Anticipated Benefit / Rationale: Adopting this section is necessary to provide notice of the fee requirements to obtain a license in architecture.

Adopting this regulatory proposal will ensure sufficient resources are available to meet the Board's consumer protection mandate and maintain Board operations. With this fee increase, the Board would be able to investigate consumer complaints, continue its enforcement endeavors, license new professionals in a timely manner, evolve as a regulatory body as the profession advances, and educate the profession and consumers about safe practice standards.

16 CCR 144, subdivision (e):

Purpose: This proposal amends the biennial renewal fee to four hundred dollars (\$400). The purpose is to provide notice to those interested in obtaining a license in architecture to know the fees associated with that licensure.

Anticipated Benefit / Rationale: Adopting this section is necessary to provide notice of the fee requirements for obtaining a license in architecture.

Adopting this regulatory proposal will ensure sufficient resources are available to meet the Board's consumer protection mandate and maintain Board operations. With this fee increase, the Board would be able to investigate consumer complaints, continue its enforcement endeavors, license new professionals in a timely manner, evolve as a regulatory body as the professions advance, and educate the profession and consumers about safe practice standards.

Underlying Data

1. [Sunset Review Report](#), November 2018
2. [December 10, 2021 Board meeting agenda](#) (agenda item I.1.i)
 - a. [Fund condition presented by DCA BO at December 10, 2021 Board meeting](#)
3. [December 10, 2021 Board meeting minutes](#) (see pages 4-5)
4. [February 18, 2022 Board meeting agenda](#) (agenda item I)
 - a. Attachment 1 -Proposed Amended 16 CCR 144 regulatory text
 - b. Attachment 2 - Fund Condition presented at the December 10, 2021 Board meeting
 - c. Attachment 3 - Fund Condition Status Quo
 - d. Attachment 4 - Fund Condition with Proposed Fee Increase
 - e. Attachment 5 - Workload Costs for Original License
 - f. Attachment 6 - Workload Costs for Renewal License
5. February 18, 2022, Board meeting minutes (see pages 5-9)

BUSINESS IMPACT

The Board has determined that the proposed regulatory action will affect the Board's licensees by increasing application and renewal fees for various license categories regulated by the Board. However, because those are individual licenses and not business licenses, the Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs for licensees because the regulations change licensing fees. Changes in licensing fees in these amounts will not create nor eliminate jobs for architects in California.
- It will not create new business or eliminate existing businesses within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not create new businesses and is not sufficient to eliminate existing businesses.
- It will not affect the expansion of businesses currently operating within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not affect the expansion of businesses and is not sufficient to eliminate existing businesses.
- This regulatory proposal does not affect worker safety because the regulations change license fees. It does not involve worker safety.
- This regulatory proposal does not affect the state's environment because It does not involve the environment.

The regulations will increase Board's license fees as follows:

| CCR Section 144 Subsections and License Type | Current Fee | Proposed Fee | Increase Amount |
|-----------------------------------------------------|--------------------|---------------------|------------------------|
| (d) - Original license | \$300 | \$400 | \$100 |
| (d) - Original license Prorated* | \$150 | \$200 | \$50 |
| (e) - Biennial Renewal | \$300 | \$400 | \$100 |

*License issued less than one year before date of expiration

The regulations are estimated to result in increased costs to licensees of approximately \$1.2 million per year as follows:

| CCR Section 144 Subsections and License Type | Annual Population* | Increase Amount | Annual Costs Increase |
|----------------------------------------------|--------------------|-----------------|-----------------------|
| (d) - Original license | 369 | \$100 | \$36,900 |
| (d) - Original license Prorated* | 308 | \$50 | \$15,400 |
| (e) - Biennial Renewal | 11,210 | \$100 | \$1,120,975 |
| Total: | | | \$1,173,275 |

*Approximate

Fiscal Impact Assessment

The Bureau estimates the proposed regulations will increase revenues by approximately \$1.2 million per year as follows:

| CCR Section 144 Subsections and License Type | Annual Population* | Increase Amount | Revenue Increase |
|----------------------------------------------|--------------------|-----------------|--------------------|
| (d) - Original license | 369 | \$100 | \$36,900 |
| (d) - Original license Prorated* | 308 | \$50 | \$15,400 |
| (e) - Biennial Renewal | 11,210 | \$100 | \$1,121,000 |
| Total: | | | \$1,173,300 |

*Approximate

Because the Board currently charges the fees in this proposal and/or performs workload associated with these programs and fees, no additional workload and costs are anticipated.

The Board estimates one-time information technology (IT) costs of \$5,000 to update cashiering and accounting software. Any IT costs will be absorbed within existing resources.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board considered reducing expenditures by cutting board costs, with options to:

- Stop sending enforcement cases to the Attorney General's Office, which means potential violations are not addressed and licensees do not face discipline
- Leave unfilled positions vacant. The Boards Assistant Executive Officer position is currently vacant, and the Board will continue to hold it open through this fiscal year for the salary savings. Leaving any other positions vacant would likely impact either the Enforcement or Licensing Divisions, which could mean an unacceptable increase in the time to handle complaints or process applications.

However, exercising either of these options would prevent the Board from fulfilling its consumer protection mandate, as the Board would no longer be able to perform many of the services mandated by the law. Therefore, this is not a viable option.

The Board also considered fee increases that are less than the amounts contained in this regulatory proposal. Revenue projections with lower fee increase amounts would not provide enough revenue for the Board to fiscally solvent for very long, and the Board would need to file another rulemaking raising fees within a fairly short period of time.