



## ■ FUTURE MEETINGS

May 25–26 in Sacramento.  
 July 27–28 in San Francisco.  
 October 26–27 in Los Angeles.

## BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

*Executive Officer:*  
**Harold L. Turner**  
 (916) 263-2222

The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors' Act, sections 8700 through 8805 of the Business and Professions Code. The Board's regulations are found in Division 5, Title 16 of the California Code of Regulations (CCR).

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licenseses. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate Rules Committee.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. The committees function in an advisory capacity unless specifically authorized to make binding decisions by the Board.

Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engi-

neering under section 6730 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are authorities linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

On March 9, Governor Wilson appointed two new Board members who subsequently joined PELS at its April 8 meeting. New public member Kathryn A. Hoffman is a senior systems engineer for an imaging technology firm, and structural engineer Hoi W. Wong is president of the Sacramento firm of Hoi Wong and Associates. Also on March 9, the Governor reappointed current Board President Richard A. Johnson to another term on the Board.

## ■ MAJOR PROJECTS

**Oversight Hearing and Resulting Legislation Prompt PELS Strategic Planning Workshops.** Following its November 1993 oversight hearing on PELS' performance [14:1 CRLR 76–77], the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions released a report in which it concluded that all Department of Consumer Affairs (DCA) occupational licensing agencies should be subject to a "sunset" legislative review process, and that PELS should be merged with the Board of Registration for Geologists and Geophysicists (BRGG). Accordingly, Senator Dan McCorquodale introduced SB 2036, which would establish a "sunset" mechanism for all DCA agencies; several weeks later, he amended SB 2038 to include a provision merging BRGG and PELS.

In anticipation of a May 9 Business and Professions Committee hearing on both bills, representatives of both boards and affected trade associations lobbied Senator McCorquodale and the members of the Committee against the merger provision in SB 2038. At the May 9 hearing, Committee members agreed to postpone the merger of the two boards, but scheduled them for early "sunset" review under SB 2036 (see LEGISLATION).

In the meantime, PELS scheduled a February 25–26 "strategic planning session" designed to clarify its role, function, and constituencies, and to address the criticisms leveled against it at the Senate Subcommittee hearing. The focus of much of

the discussion at the retreat was the Center for Public Interest Law's (CPIL) assertion that PELS' engineering enabling statutes and regulations are extremely vague and in need of major restructuring and modernization; and Board President Rich Johnson's November 1993 "white paper" entitled *Confronting the Issues of Engineering Discipline Definitions*, in which Johnson agreed with CPIL that the Board's statutes are internally inconsistent and lack clarity. [14:1 CRLR 77] On this issue, the Board heard presentations from representatives of state engineering boards in New Jersey, Delaware, Wyoming, and Utah. Although PELS members generally agreed that its enabling act is in need of an overhaul and discussed how aspects of the different approaches taken by these and other states might be applied in California, they made no specific plans to accomplish this goal.

At the workshop, the Board considered for adoption the following mission statement: "The mission of the Board of Registration for Professional Engineers and Land Surveyors is to safeguard the life, health, property, and public welfare by regulating the practice of professional engineering and professional land surveying. We qualify and license individuals, establish regulations, enforce laws and regulations, [and] provide information so that the public can make informed decisions." Additionally, the Board reviewed a more detailed proposed vision statement, and discussed multiple issues regarding its regulatory framework and purpose.

Among other things, the Board set a goal to advise all engineer and land surveyor applicants who file timely applications of acceptance or rejection within sixty days of receipt of the application. The Board also discussed instituting a continuing education and/or retesting program (see below), and set a goal to implement a comprehensive program to ensure continuing competency.

In response to CPIL's claim that more than half of the consumer complaints received by the Board stem from the lack of a written contract between the parties and that PELS has failed to police billing abuses within the industry, the Board discussed whether PELS staff should be involved in fee disputes between consumers and engineers or land surveyors. Several staff members noted that staff currently involves itself informally in mediating fee disputes. Several Board members opined that staff should not be involved in this capacity, and should leave such matters to the courts. Although PELS has jurisdiction to deal cases involving breach of contract, these members contended that such involvement by PELS is unfair to the en-



gineer or land surveyor who is subject to possible discipline by the Board, while the consumer is not. On the other hand, other Board members favored staff's involvement in fee dispute resolution, and opined that the Board should in fact publicize dispute resolution results more vigorously to improve PELS' public image.

At its April 8 meeting, PELS directed staff to outline all the issues discussed at the February workshop, establish a schedule for a comprehensive "regulatory reform evaluation," and prepare the proposed mission statement for possible adoption at the Board's May 27 meeting. The Board also agreed to appoint the chairs of its Administrative, Examination/Qualification, Enforcement, and Legislative Committees to an ad hoc committee to work with Board staff to draft proposed goals and objectives to carry out the Board's mission statement.

**PELS Committee Considers Increasing Experience Requirement.** On February 4, PELS' Examination/Qualification Committee again discussed whether to increase the amount of experience required to qualify for registration as a professional engineer. Currently, Business and Professions Code section 6751 requires an applicant to have a minimum of six years of qualifying experience in engineering work which indicates to PELS that the applicant is competent to practice the type of engineering for which registration is sought; because applicants are able to apply four years of education to satisfy the experience requirement, most applicants currently qualify for the exam with only two years of practical experience. The Committee again discussed whether to conform its requirements to those of many other states by increasing the experience requirement from six to eight years, which would have the effect of doubling the practical experience needed for most candidates. [14:1 CRLR 77]

Some Committee members expressed concern for the engineer who may be denied comity by other states if that engineer takes his/her California engineering examination before accumulating eight years of total experience. Deputy Attorney General Reg Rucoba opined that the Board's desire to change its experience requirements to conform to those of other states may not be a strong enough reason to sway the legislature to pass legislation to increase the experience requirement; he suggested that PELS demonstrate how such a proposal would provide better protection for the consumer. Following discussion, however, the Committee directed staff to review the comity statutes of states which have indicated that they would deny reci-

procity licensure to engineers who take their engineering examination before accumulating eight years of total experience.

At its March 23 meeting, the Examination/Qualification Committee continued its discussion of this issue, and directed staff to work with legal counsel to prepare a statement to candidates informing them that they may not be able to obtain comity in other states if they choose to take and pass the examination in California prior to obtaining four years of work experience.

**PELS Committee Considers Continuing Education Program.** On February 4, PELS' Examination/Qualification Committee discussed whether to institute a continuing education (CE) program for engineers and/or land surveyors. Among other things, the Committee discussed whether CE is necessary; whether the Board's CE requirement should focus on technical competency, ethical considerations, or a combination of both; methods of auditing the CE compliance of licensees who reside out-of-state; mechanisms to verify completion of CE requirements; whether CE requirements should differ depending on the type of license or registration held; and the effect of a CE program on the Board's staffing resources.

In light of its many concerns regarding the feasibility of such a program, the Committee agreed to recommend that the full Board assign to its Technical Advisory Committees (TACs) the duty of studying the CE issue. At its April 8 meeting, the Board unanimously agreed to direct the TACs to study, within the next six months, the need for mandatory CE in the engineering and land surveying professions.

**PELS Proposes Change to Curriculum Regulation.** On March 25, PELS published notice of its intent to amend section 460, Title 16 of the CCR, which currently defines a curriculum approved by the Board as any engineering curriculum leading to a first degree in engineering accredited by the Accreditation Board for Engineering and Technology (ABET). The Board's proposed amendments to section 460 would define the effective date of accreditation as one year prior to that specified in the ABET yearbook. PELS conducted a public hearing on this proposal on May 10; at this writing, the action awaits adoption by PELS and review and approval by the Office of Administrative Law (OAL).

**Rulemaking Update.** The following is a status update on other rulemaking proposals discussed in detail in previous issues of the *Reporter*:

• **Three-Year Delinquent Registrants.** On March 25, PELS published notice of its intent to adopt new section 424.5, Title

16 of the CCR, which would define requirements and conditions for renewal, restoration, reinstatement, or reissuance of an expired or delinquent license or registration. [14:1 CRLR 78; 13:4 CRLR 83] Among other things, section 424.5 would require a person seeking reinstatement of an expired license or registration to submit evidence satisfactory to PELS that he/she is qualified in the branch for which he/she is applying; successfully complete the specified examination; successfully complete examinations on seismic principles and engineering surveying, if he/she is a civil engineering applicant whose initial registration was issued prior to January 1, 1988; and pay all accrued and unpaid renewal fees.

On May 10, PELS conducted a public hearing on its proposed adoption of section 424.5; at this writing, PELS is scheduled to consider this proposal at its May 27 meeting.

• **Citation and Fine Program.** On February 18, PELS published notice of its intent to adopt new sections 472, 472.1, 472.2, 472.3, 472.4, 473, 473.1, 473.2, 473.3, 473.4, and 473.5, Title 16 of the CCR, to implement a citation and fine system for use against unregistered or unlicensed individuals who are performing services for which registration or licensure is required, and registered or licensed individuals who violate the Professional Engineers Act and/or the Professional Land Surveyors Act. According to PELS, this program would serve as an enforcement tool to address violations of the Board's enabling acts and regulations which do not merit full-fledged disciplinary action but which should not be ignored. [14:1 CRLR 78; 13:4 CRLR 83]

At March 31 and April 7 public hearings on the cite and fine rules, many engineers voiced concerns about the proposed regulatory language, claiming that it delegates too much authority to the Board's Executive Officer; deprives licensees of due process; does not contain provisions for expungement; and does not provide for peer review in each case. Center for Public Interest Law (CPIL) Supervising Attorney Julianne D'Angelo testified in favor of the proposal at the March 31 hearing, contending that the proposed rules provide adequate safeguards to prevent abuse of discretion by the Executive Officer and provide the requisite due process. D'Angelo also asserted that peer review is not always necessary because many cases are not technical in nature. At this writing, PELS is scheduled to consider adopting the citation and fine regulations at its May 27 meeting.

• **Definition of Electrical Engineering.** On March 25, PELS published notice



of its intent to amend section 404 and adopt new section 426.70, Title 16 of the CCR, regarding the practice of electrical engineering; since 1992, PELS has been discussing the adoption of regulatory language to clarify the scope of practice of electrical engineers and specify what constitutes qualifying experience for registration as an electrical engineer, but to date has been unable to reach a consensus. [14:1 CRLR 78; 13:1 CRLR 66; 12:4 CRLR 120]

Among other things, the proposed amendments to section 404 would provide that electrical engineering is that branch of professional engineering which involves the use of engineering judgment, the application of engineering principles, engineering analysis, the review of engineering work, and/or the assumption of responsible charge of design or development of electrical devices, electrical equipment, electrical systems, or electrical processes whose functioning depends primarily on electrical, electronic, magnetic, or electromagnetic effects and/or phenomena.

Proposed new section 426.70 would provide, among other things, that experience which qualifies an applicant for registration as an electrical engineer shall be work that conforms with the definition of the term electrical engineering as specified in section 404 and that complies with applicable codes and recognized standards, where such codes and standards have been established in order to safeguard life, health, property, and public welfare, in any of the following or combination of the following:

- work as a subordinate under the direct supervision of a registered electrical engineer or other legally authorized supervisor who is technically qualified in the area of the work;

- work in a manufacturing or other exempt facility, where the work is reviewed by a registered electrical engineer or where the product is subject to independent review by an individual(s) knowledgeable in the area of design and product performance testing; or

- work judged by PELS to be equivalent to one or more of the above.

PELS conducted a May 10 public hearing on these regulatory proposals; at this writing, PELS is scheduled to consider them at its May 27 meeting.

- **Registration of Engineering Professors.** On March 25, PELS published notice of its intent to amend sections 424 and 438, Title 16 of the CCR, to allow professors to waive the engineering-in-training examination and qualify for the professional engineering examinations. [14:1 CRLR 79]

Section 424 currently defines qualifying experience as that experience which has been gained under the direction of a professional engineer; the Board's proposed amendments would provide that qualifying experience may be gained under the direction of any person legally qualified to practice in the applicant's branch of professional engineering, define what constitutes legal authorization to practice, and add applied engineering research as work which may be considered as qualifying experience.

Section 438 currently provides that an applicant for registration as a professional engineer whose qualifications meet all applicable statutory and regulatory requirements will be allowed to appear for only the second division of the written examination prescribed by Business and Professions Code section 6755 if he/she meets one of several specified requirements. The Board's proposed amendments would specify a person could obtain such a waiver for a period of five years from the effective date of the amendments, if he/she either serves in a tenure-track faculty position in a Board-approved engineering curriculum at a level of at least Assistant Professor, or holds an earned doctorate in engineering.

PELS conducted a public hearing on this proposal on May 10; at this writing, the Board is scheduled to consider it at its May 27 meeting.

## ■ LEGISLATION

**SB 2036 (McCorquodale)**, as amended May 18, would create a "sunset" review process for occupational licensing agencies within DCA, requiring each to be comprehensively reviewed every four years. SB 2036 would impose an initial "sunset" date of July 1, 1998 for PELS; create a Joint Legislative Sunset Review Committee within the legislature, which would review PELS' performance approximately one year prior to its sunset date; and specify 11 categories of criteria under which PELS' performance will be evaluated. Following review of the agency and a public hearing, the Committee would make recommendations to the legislature on whether PELS should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case PELS would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. (See agency report on DCA for related discussion of the "sunset" concept.) [S. Appr]

**SB 2038 (McCorquodale)**, as amended April 5, would have merged PELS with BRGG (see MAJOR PROJECTS). At a

May 9 hearing of the Senate Business and Professions Committee, representatives of PELS, BRGG, and the affected trade associations expressed support for SB 2036 (see above) and lobbied tenaciously against SB 2038, urging Senator McCorquodale to delete the merger provision and allow them to participate in the SB 2036 sunset process. Senator McCorquodale agreed to delete the merger provision in SB 2038 and amend SB 2036 to establish sunset dates of July 1, 1998 for PELS and July 1, 1997 for BRGG; that language appears in the May 18 version of the bills. [S. Appr]

**AB 2952 (Karnette)**. Existing law makes it unlawful for anyone other than a registered professional engineer to use the title professional engineer, registered engineer, consulting engineer, or any specified engineering branch title. As amended May 9, this bill would have provided that a professional engineer shall practice only in the field(s) in which he/she is by education or experience fully competent and proficient.

Existing law allows a registered civil engineer to practice any engineering in connection with or supplementary to civil engineering studies or activities, as specified; and defines electrical and mechanical engineering. This bill would have allowed a professional engineer to practice incidental civil, electrical, or mechanical engineering consistent with his/her branch of registration. This bill was rejected by the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development on May 11.

**AB 2780 (O'Connell)**, as amended May 18, would create the California Certified Home Inspectors Board to certify home inspectors, and exempt certified home inspectors from the Architects Practice Act, the Professional Engineers Act, the Contractors State License Law, the Real Estate Appraisers' Licensing and Certification Law, and provisions governing structural pest control operators. [A. Floor]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 79-80:

**AB 1807 (Bronshvag)**, as amended March 23, adds additional titles to the list of titles that may be used only by a registered professional engineer.

Under existing law, the provisions of the Professional Engineers Act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, and petroleum engineering do not apply to employees in the communication industry, or to employees of contractors while



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engaged in work on communication equipment. This bill recasts these provisions to instead make the provisions of the Act pertaining to registration of professional engineers other than civil engineers inapplicable to those employees.

Existing law requires PELS to prepare a roster and a supplemental roster of all registered professional engineers, and a roster and supplemental roster of all licensed land surveyors. This bill deletes the requirement that PELS prepare the supplemental rosters of professional engineers and licensed land surveyors, and requires that the rosters be a public record.

This bill revises requirements relating to engineering plans, specifications, reports, or documents prepared by a registered engineer to require that they bear a seal and the expiration date of the registration of the engineer; this bill also requires licensed land surveyors to obtain a seal, and requires that the license expiration date be shown within the confines of the seal.

Existing law allows renewal of a certificate or registration as a professional engineer or of a license to practice land surveying for five years after expiration, and allows reinstatement beyond the five-year period unless the certificate holder, registrant, or licentiate has committed specified acts. If the registrant or certificate holder has practiced with an expired license, PELS may act in specified ways, including by renewing or restoring the license and attaching conditions. This bill shortens the renewal period to three years and deletes the provision specifying the Board's discretionary power to act beyond the delinquent renewal period.

Finally, this bill revises certain administrative functions and responsibilities of PELS. This bill was signed by the Governor on March 30 (Chapter 26, Statutes of 1994).

**AB 1392 (Speier)**, as amended July 1, 1993, would—among other things—provide that PELS' executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the DCA Director. [*S. B&P*]

**AB 1363 (Lee)**. Existing law provides that if the county surveyor finds that the record of survey does not comply with section 8766 of the Business and Professions Code, it shall be returned to the person who presented it, together it with a written statement of the changes necessary. Existing law also provides that the licensed land surveyor or registered civil engineer submitting the record may then make the agreed changes and note on the map those matters which cannot be agreed

upon, and resubmit the survey. As introduced March 3, 1993, this bill would require the licensed land surveyor or registered civil engineer to make the agreed changes and note on the map any specific matters which cannot be agreed upon, before resubmission. The bill would also provide that the land surveyor or civil engineer and county surveyor shall not be prevented from resolving their differences prior to resubmission.

The bill would also provide that a record of survey may also be prepared and filed for the express purpose of (1) rescinding the effect of prior matters of disagreement, as specified, or (2) rescinding the effect of prior county surveyor opinions, as specified. The bill would provide that a record of survey amended and filed pursuant to this provision shall include an explanation of how these matters of disagreement or opinion were resolved. [*S. B&P*]

The following bills died in committee: **SB 296 (Ayala)**, which would have made technical, nonsubstantive changes to existing law which permits a licensed land surveyor to offer to practice, procure, and offer to procure civil engineering work incidental to his/her land surveying practice, even though he/she is not authorized to do that work, provided all civil engineering work is performed by or under the direction of a registered civil engineer; and **AB 358 (Eastin)**, which would have required that persons who control the management and daily operations of a business concern which performs engineering or land surveying services be appropriately licensed or registered to render these services.

### RECENT MEETINGS

At its January 7 meeting, PELS directed Executive Officer Hal Turner to draft a letter to the members of the legislature asking that they refrain from introducing any legislation that would make significant changes to the Professional Engineers Act until the Board has completed its "regulatory reform evaluation" (see MAJOR PROJECTS).

At its February 4 meeting, PELS agreed to create a Professional Engineers Review Committee to address issues related to the January 17 Northridge earthquake. Specifically, the Review Committee is charged with evaluating the implications of the earthquake with respect to PELS' responsibilities for examination, enforcement, and licensing. The Committee toured the devastated area to observe firsthand the different types of failures that occurred and how they affected the community and the economy. The Committee

will present a report and recommendations to PELS at a future meeting.

At its April 8 meeting, PELS unanimously agreed to take a proactive role to accommodate metric conversion, and directed its Examination/Qualification Committee to prepare a schedule of metric implementation for each examination administered by the Board.

### FUTURE MEETINGS

May 27 in Sacramento.

July 8 in San Diego.

August 19 in Sacramento.

September 30 in San Francisco.

November 18 in Sacramento.

### BOARD OF REGISTERED NURSING

*Executive Officer:*

*Ruth Ann Terry*

*(916) 324-2715*

Pursuant to the Nursing Practice Act, Business and Professions Code section 2700 *et seq.*, the Board of Registered Nursing (BRN) licenses qualified RNs, certifies qualified nurse-midwifery applicants, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. A major Board responsibility involves taking disciplinary action against licensed RNs. BRN's regulations implementing the Nursing Practice Act are codified in Division 14, Title 16 of the California Code of Regulations (CCR).

The nine-member Board consists of three public members, three registered nurses actively engaged in patient care, one licensed RN administrator of a nursing service, one nurse educator, and one licensed physician. All serve four-year terms.

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 90 people.

### MAJOR PROJECTS

**Board Proposes Citation and Fine Regulations.** At its February meeting, BRN approved a proposed framework for assessing fines and citations against RNs and unlicensed persons performing services for which an RN license is required. Pursuant to Business and Professions Code sections 125.9, 148, and 2715, the Board agreed to pursue the adoption of Article 3.5, Division 14, Title 16 of the CCR. The objectives of the program are to establish a mechanism to enhance con-