

Date of Hearing: June 14, 2016

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Rudy Salas, Chair

SB 1085(Roth) – As Amended April 20, 2016

SENATE VOTE: 38-0

SUBJECT: Professional engineers: geologists: land surveyors

SUMMARY: Requires the Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) to administer an assessment to licensees covering relevant state laws and regulations, as specified, and redefines the examination for licensure as a geophysicist as a two-part test with a separate state law and regulation component.

EXISTING LAW:

- 1) Authorizes a board under the Department of Consumer Affairs (DCA) to impose licensing restrictions, including remedial training, on a licensee engaged in acts or omissions constituting a violation of the Business and Professions Code (BPC). (BPC § 494)
- 2) Establishes the BPELSG within the DCA to administer and enforce the Professional Engineers Act, the Geologist and Geophysicist Act, and the Professional Land Surveyors' Act. (BPC §§ 6700-6799, 7800-7887, 8700-8805)
- 3) Requires an applicant for initial licensure as a professional engineer, land surveyor, or geologist to, among other things, pass a written examination with a separate section covering state law and the BPELSG' regulation. (BPC §§ 6755.1, 7841, 8741.1)
- 4) Requires an applicant for licensure as a geophysicist to, among other things, pass a written examination. (BPC § 7841.1)

THIS BILL:

- 1) Requires, at the time of renewal, the BPELSG to administer an assessment of the renewing licensee.
- 2) Specifies that the assessment includes questions to reinforce the licensee's knowledge of state laws and the BPELSG's rules and regulations relating to the practice of the licensee.
- 3) States that failure to complete the assessment within 60 days after the date of expiration of the certificate shall constitute a cause for disciplinary action.
- 4) Provides that failure to complete the assessment does not affect the renewal of the license.
- 5) Specifies that the initial examination for licensure as a geophysicist shall test an applicant's knowledge of state laws, rules, and regulations, and of the principles and practices of geophysics within this state.
- 6) Requires the BPELSG to administer the state law and regulation portion of the examination for licensure as a geophysicist as a separate part.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Purpose. This bill is sponsored by the BPELSG. The author wishes to include the following statement from the BPELSG: “It is anticipated that these legislative changes will allow the renewal candidate to renew their license in much the same manner as it is currently processed with the additional requirement that the laws and regulations examination must be completed and passed within a reasonable timeframe of the licensee’s scheduled renewal date.

The primary intent behind this requirement is to provide an environment in which the [BPELSG] can efficiently increase awareness of the laws and regulations directly affecting the licensee’s practice while providing an effective and more instantaneous communication model for educating the licensees in addition to typical outreach efforts.”

Background. The BPELSG is the licensing entity responsible for licensing and regulating professional engineers, land surveyors, and geologists. As of November 17, 2015, the BPELSG licenses 93,654 professional engineers, 4202 land surveyors, 7,534 geologists, and 165 geophysicists.

Renewal Assessment. Currently, licensees under the BPELSG are not required to complete any continuing education. However, during the BPELSG’s 2014 Sunset Review, the BPELSG reported that it receives a high number of non-practice-related infractions. Specifically, of the violations rising to the level of formal disciplinary action, the BPELSG found that approximately 45% related to non-practice-related issues. The examples include: “failing to include all of the required elements in a written contract, failing to execute a written contract, failing to sign and seal professional documents in the manner required by law, failing to submit reports of civil judgments or settlements, and failing to file Organization Record forms.”

According to the BPELSG, the primary reason provided by the licensees tends to be that the licensees are unaware of the various administrative requirements. The BPELSG reports that this is despite having the information readily available on the BPELSG’s website. As a result, the BPELSG proposes using the assessment to ensure licensees are informed.

The BPELSG has stated that the assessment will be developed with the DCA’s SOLID training unit, will be delivered online, will consist of two to three pop-ups with review material and quizzes, and will have no pass/fail component. According to the BPELSG, “If the licensee fails to correctly answer a question, the system will outline the issue and highlight the correct response. At the end of the assessment, the licensee would sign a document highlighting that they have reviewed the information and provide their license number and last four digits of their social security number.”

In addition to protecting both the licensees and the consumers the requirements are intended to benefit, the BPELSG believes the proposal will cut enforcement costs and timelines. By keeping licensees apprised of the relevant non-practice related laws, the BPELSG anticipates spending less resources on investigations for these types of cases.

Other States. According to the National Society of Professional Engineers, as of April 25, 2016, 44 states require between 15 to 30 hours of continuing education for licensed professional engineers. According to the BPELSG, the proposal under this bill is not continuing education

Geophysicist State Jurisprudence Exam. Under existing law, an applicant for licensure as a professional engineer, land surveyor, or geologist, in addition to the standard national examination, must take a separate portion that tests the applicant's knowledge of state-specific laws and regulations. The purpose of the exam is to cover state law not tested on the national exam. However, existing law does not state that an applicant for licensure as a geophysicist (which is a type of geologist for purposes of licensing) must take the state-specific examination. Therefore, this bill will update the statute to conform to the requirement for the other license types under the BPELSG.

Current Related Legislation. SB 1165 (Canella) of the current Legislative Session, makes multiple changes to increase consistency between the practice acts administered by the BPELSG. *STATUS: This bill will also be heard before the Assembly Committee on Business and Professions during today's hearing.*

SB 1479 (Committee on Business, Professions and Economic Development) of the current Legislative Session, among other things, authorizes the BPELSG to make arrangements with a public or private organization to conduct the geology examination and to contract with a public or private organization for materials or services related to the examination, conforming the BPELSG's authority for geologists to its existing authority for professional engineers and land surveyors. *STATUS: This bill will also be heard before the Assembly Committee on Business and Professions during today's hearing.*

ARGUMENTS IN SUPPORT:

The BPELSG writes in support, "Based on the [BPELSG]'s experience, licensees fail to adequately and independently stay up-to-date with critical legal and regulatory changes that directly affect the manner in which they provide services to and for the general public.

This bill would NOT put a hold on the renewal of the license or impact the status of the license. Instead this bill would give the [BPELSG] the authority to pursue disciplinary action against a licensee who failed to complete the assessment. However, such action would be pursued under the provisions of the Administrative Procedure Act to ensure the licensee's due process rights."

The American Society of Civil Engineers (ASCE) Region 9 writes in support, "For more than 40 years, the [ASCE] has encouraged its members in the civil engineering profession to support continuing professional development qualifications in order to acquire and maintain a license as a civil engineer. [This bill] is consistent with the [ASCE's] continuing education policy (Policy Statement No. 425)."

ARGUMENTS IN OPPOSITION:

The Professional Engineers in California Government (PECG) writes in opposition, "PECG does not believe the [BPELSG] has demonstrated a need for the bill. The [BPELSG] licenses over 100,000 Engineers, Land Surveyors, and Geologists, yet by its own admission the [BPELSG] processes only 50 violations each year of its rules and regulations. Nevertheless, it proposes to test all of its licensees upon their renewal every two years. That constitutes an unjustified waste

of time and [BPELSG] resources and unnecessarily burdens the 99.9% of licensees who are in compliance with the rules.

Engineers, Land Surveyors, Geologists and Geophysicists are already required to take a comprehensive exam in order to become licensed. The [BPELSG] currently has sufficient tools to address and correct failures to comply with the laws and rules. The [BPELSG] should continue to utilize those effective tools to ensure compliance with the law instead of requiring all 100,000 licensees to take an additional exam every two years.”

AMENDMENTS:

The author should make the following amendments:

- 1) Clarify the permissiveness of the BPELSG’s authority to discipline:

Throughout, strike out “shall constitute a cause for” and insert:

may result in

- 2) Clarify that the BPELSG may not charge a fee for the assessment:

Throughout, after subdivision (b), insert:

(c) The board shall not charge the certificate holder a fee for the administration or development of the assessment.

- 3) Further define “assessment” and limit the scope of the assessment:

Throughout, after the new subdivision (c), insert:

(d) For purposes of this section, “assessment” means an online program that contains educational reading material and questions. The material shall be based on state law and the board’s rules and regulations related to the board’s top five violations and any changes or additions to existing law.

REGISTERED SUPPORT:

The Board for Professional Engineers, Land Surveyors, and Geologists
American Society of Civil Engineers Region 9

REGISTERED OPPOSITION:

Professional Engineers in California Government

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301