

**BACKGROUND PAPER FOR THE  
CALIFORNIA ARCHITECTS BOARD AND  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE**

**Joint Oversight Hearing, March 18, 2015**

**Senate Committee on Business, Professions and Economic Development  
and  
Assembly Committee on Business and Professions**

**BRIEF OVERVIEW OF THE CALIFORNIA ARCHITECTS BOARD**

**History and Function of the Board**

On March 23, 1901, California created the State Board of Architecture. In 1929, the Board's name was changed to the California State Board of Architectural Examiners. That same year, the Board began issuing licenses to individuals who passed both a written and an oral examination. In 1963, the Act was revised making the actual practice of architecture by an unlicensed individual a misdemeanor. This revision made the Act a true practice act, restricting the practice of architecture to only licensed architects.

Since 1997, the Board has also overseen the duties, responsibilities, and jurisdiction of the Landscape Architects Technical Committee (LATC). The Board is charged with regulating landscape architects and managing all of the affairs of the former Board of Landscape Architects. The LATC is structured as a committee of the Board. The Board views this structure as very positive and has found the relationship between the two related professions to be mutually beneficial. Opportunities for collaboration between the two regulatory programs and the efficiencies associated with combining efforts wherever possible are the main advantages. The Board is not aware of any consumer-related issues with respect to the structure, or concerns from the respective professions and their organizations relating to the structure.

In 1999, the Board's name was changed to the California Architects Board. This change was designed to reflect the fact that, in addition to examining candidates, the Board maintains a wide range of programs to protect consumers and regulate the practice of architecture.

The mission of the Board is to protect the public health, safety, and welfare through the regulation of the practice of architecture and landscape architecture in California. The Board has established the following eight goals which provide the framework for its efforts to further its mission:

1. Ensuring that those entering the practice meet standards of competency by way of education, experience, and examination;
2. Establishing standards of practice for those licensed to practice;
3. Requiring that any person practicing or offering to practice architecture be licensed;
4. Protecting consumers and users of architectural services;
5. Enforcing the laws, codes, and standards governing architectural practice in a fair, expeditious, and uniform manner;
6. Empowering consumers by providing information and educational materials to help them make informed decisions;
7. Collaborating with the profession and academy to ensure an effective licensure system and enforcement program; and
8. Overseeing the activities of the LATC to ensure it regulates the practice of landscape architecture in a manner which safeguards the well-being of the public and the environment.

In fulfilling its mission, the Board has found that acting preventively and proactively is the best use of its resources. Because of the nature of the design profession, there are numerous opportunities to prevent minor problems from becoming disasters: the worst case scenario, a building failure, is simply not tolerable. As such, the Board works to aggressively address issues well before they exacerbate into catastrophes. In the Board’s Enforcement Program, for example, this means cooperatively working with building departments through the Board’s first-of-its-kind Building Official Contact Program. The Board also invests heavily in communications, both to consumers and to architects. The Board works closely with professional groups to ensure that architects understand changes in laws, codes, and standards. The Board also reaches out to schools and related professions and organizations via a proactive liaison program. To ensure the effectiveness of these endeavors, the Board works to upgrade and enhance its communications by constantly seeking feedback and analyzing the results of its communications efforts. All of these initiatives underscore the Board’s belief that it must be both strategic and aggressive in employing the preventive measures necessary to effectively protect the public health, safety, and welfare.

**Board Membership and Committees**

The 10-member Board consists of five architects and five public members. Three of the public members are appointed by the Governor, and the Senate Committee on Rules and the Speaker of the Assembly each appoint one public member. Board members meet four times per year. All meetings are subject to the Bagley-Keene Open Meetings Act. There is currently one vacancy on the Board, and in the past four years, the Board has successfully held all scheduled meetings without any quorum issues.

The following is a listing of the current Board members and their background:

Board Member	Date First App'd.	Date Term Exp.	App'ting Auth.	Public or Prof'l Member
<p><b>Jon A. Baker</b>, Board President, FAIA, LEED AP, is a partner at BakerNowicki Design Studio, LLP in San Diego, Baker and his team specialize in the design of educational, civic, senior housing / long-term care and healthcare facilities. Baker also has extensive experience with California state agencies, including the Office of Statewide Health Planning and Development, the Division of the State Architect, and the Department of Education. Baker chairs the Board’s Executive Committee and serves on the</p>	11/05	6/17	Governor	Prof'l

Professional Qualifications Committee. He also serves on the National Council of Architectural Registration Boards' (NCARB) Examination Committee and previously served as Region VI Director to the NCARB national board from 2010–2012. Baker also currently serves on the Western Council of Architectural Registration Boards' Executive Committee.				
<b>Pasqual V. Gutierrez</b> , Board Vice President, AIA, previously served as Board President in 2011. A resident of Walnut, Gutierrez has served HMC Architects in the various capacities of senior project architect, associate, senior associate and currently serves as principal. From 1988 to 1999, Gutierrez was principal of the architecture firm The Gutierrez Partnership before joining HMC. Prior to that, he was an architect with the interior design firm Reel Grobman Associates from 1983 to 1988. Gutierrez serves on the Board's Executive Committee and chairs the Professional Qualifications Committee. He also serves on NCARB's Licensure Task Force.	9/2/06	6/20	Governor	Prof'l
<b>Tian Feng</b> , Board Secretary, FAIA, FCSI, has been the District Architect for the San Francisco Bay Area Rapid Transit District (BART) since 2001, where he has been responsible for developing and implementing facilities standards as well as sustainability policy and initiatives, including climate change adaptation. Prior to BART, he worked at Jacobs Engineering, LCA Architects, JKA Construction Consultants, Sue Associates, FCA Architects, and the USC School of Architecture as a designer, architect, project manager and teaching assistant. He was an architectural advisory member at Metropolitan Transportation Commission, and East Bay/Oakland Chapter president of the Construction Specifications Institute. Feng earned a Master of Science degree in architecture from the University of Southern California. He serves on the Board's Executive Committee and is Vice Chair of the Professional Qualifications Committee.	2/14	6/17	Governor	Prof'l
<b>Denise Campos</b> has over 12 years of experience working in community and government relations. Campos works for Southern California Gas Company's Regional Public Affairs team. Prior to that, she worked for several Los Angeles local elected officials. She is a graduate from San Diego State University with dual bachelor's degrees in Political Science and Mexican American Studies, and is a member of the Hispanias Organized for Political Equality Leadership Institute 2014. Campos serves on the Board's Communications Committee.	6/14	6/18	Senate Rules	Public
<b>Sylvia Kwan</b> , FAIA, LEED AP, has been founder of Kwan Henmi Architecture and Planning Inc. since 1980 and chairman since 2007. Kwan Henmi's portfolio includes civic, education, transportation, residential, and commercial developments in communities across the Bay Area. Kwan has served as Director of the AIA National Board, the California Council Board, and the San Francisco Chapter Board. She is also a member of the San Francisco Chamber of Commerce and the Bay Area Council boards. Kwan received both her Bachelor of Arts and her Master of Arts degrees in architecture from the University of California, Berkeley. She serves on the Board's Executive Committee and chairs the Communications Committee.	8/13	6/19	Governor	Prof'l
<b>Ebony Lewis</b> has been with Kaiser Permanente since 2005 and currently works as a residency program administrator where she continues to build physician capacity and develop diversity recruitment through outreach strategies. She is a member of the University of Southern California Society of Trojan Women, Women in Health Administration, Junior League of Los Angeles, the Los Angeles African American Women's Public Policy Institute, Co-Chair of Imagine LA Change Agents, and Co-Founder of the Black Los Angeles Young Democrats. Lewis earned an Executive Master of Health Administration degree from the University of Southern California, Sol Price School of Public Policy. She serves on the Board's Professional Qualifications Committee.	12/14	6/19	Governor	Public
<b>Matthew McGuinness</b> is president of Interior Design Services (IDS), Inc. and has worked there since 1988. Prior to becoming president at IDS,	9/12	6/16	Governor	Public

McGuinness worked in several other capacities including: vice president, sales and marketing manager, sales associate, and bookkeeper. McGuinness chairs the Board's Regulatory and Enforcement Committee.				
<b>Nilza Serrano</b> founded TMS Production and Post Production firm, while maintaining a steadfast commitment to public service. She serves on the Getty House Foundation Board of Directors and the Board of Directors for HOPE-PAC, a Political Action Committee. Serrano's advocacy helps to build and leverage opportunity, education and outreach to benefit community based services. She is Vice Chair of the Board's Communications Committee.	9/13	6/16	Governor	Public
<b>Barry Williams</b> has been principal architect and owner of Barry Lorenz Williams Associates since 2010, where he was principal architect and owner from 1981 to 1998, and has been a lecturer at California Polytechnic State University, San Luis Obispo since 1979. He was a principal architect at Westberg and White Inc. Architects and Planners from 1998 to 2010 and was a research analyst and professional liability specialist at Design Professionals Insurance Company from 1995 to 2001. Williams is a member of the College of Architecture and Environmental Design Foundation board. He earned both a Bachelor of Architecture degree and a Master of Science degree in architecture from California Polytechnic State University, San Luis Obispo. Williams is Vice Chair of the Board's Regulatory and Enforcement Committee and serves on the Professional Qualifications Committee.	12/14	6/18	Governor	Architect

The Board currently has one public member vacancy due to a Board Member who resigned in December, 2014, due to increased work commitments.

The following are a list of the Board's Committees:

- **Executive Committee:** coordinates and leads the Board's public awareness program, organizational relationships, organizational development, and customer service efforts.
- **Professional Qualifications Committee (PQC):** ensures professional qualifications by setting requirements for education, experience, and examination; reviews the Board's national examination to ensure that it fairly and effectively tests the skills important to the practice of architecture in California; and reviews the practice of architecture to ensure the Act accurately reflects areas of practice.
- **Regulatory and Enforcement Committee (REC):** makes recommendations on practice standards and enforcement issues, regulatory standards of practice, and policies and procedures to protect consumers; and informs the public and licensees of the Board's standards and enforcement programs.
- **Communications Committee:** oversees all of the Board's communications and identifies strategies to effectively communicate to key audiences, and provides strategic input on enhancing the use of the Internet to communicate with the Board's stakeholders.

**Fiscal and Fund Analysis**

The Board is a special fund agency that generates its revenue from its fees. The Board's main source of revenue is through the collection of examination, licensing, and renewal fees. These fees support the license, examination, enforcement, and administration programs, which includes processing and issuing licenses, maintaining Board records, producing and distributing publications, mediating consumer complaints, enforcing statutes, disciplinary actions, personnel, and general operating expenses. Currently, fees for initial and renewal licensure are \$300. Licenses are renewed biennially.

The Board's fund condition is shown below, identifying fund balance and expenditure levels. The total revenues anticipated by the Board for Fiscal Year (FY) 2014/15, are \$2.77 million, and for FY 2015/16, is \$4.04 million. The total expenditures anticipated for the Board for FY 2014/15, is \$3.90 million, and for FY 2015/16, \$3.98 million. The reason for the increase in anticipated expenditures is due to the DCA Budget Office projection model, which assumes that all authorized funds will be expended. The Board anticipates it will have approximately 12.4 months in reserve for FY 2014/15 and FY 2015/16.

The recent economic climate has resulted in a variety of State Budget spending restrictions, which have impacted the Board's expenditures. In addition, following the February 2011 transition of the California Supplemental Examination (CSE) from an oral format to a more efficient written, computer-based version, the Board has had to expend less of its authorized budget. The Board, in consultation with the Department of Consumer Affairs (DCA) Budget Office, determined that a reduction in expenditure authority is appropriate due to savings from the CSE. As a result, the Board is currently pursuing a negative Budget Change Proposal (BCP) in the amount of \$400,000 for FY 2015/16 and ongoing. In 2014, the Board submitted a negative BCP to the Department of Finance to request this voluntary expenditure authority reduction, and approval is currently pending.

<b>Fund Condition</b>								
(Dollars in Thousands)	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Beginning Balance	\$2,484*	\$2,580*	\$4,067*	\$4,098*	\$5,252	\$4,121	\$4,183	\$2,894
Revenues and Transfers	\$2,836	\$4,156	\$2,791	\$4,153	\$2,773	\$4,041	\$2,770	\$4,056
<b>Total Resources</b>	\$5,320	\$6,736	\$6,858	\$8,251	\$8,025	\$8,162	\$6,953	\$6,950
Budget Authority	\$3,591	\$3,624	\$3,671	\$3,818	\$3,901	\$3,979	\$4,059	\$4,140
Expenditures**/**	\$2,839* *	\$2,694* *	\$2,797* *	\$2,999* *	\$3,903**/ ***	\$3,979** *	\$4,059* **	\$4,140* **
<b>Fund Balance</b>	\$2,481	\$4,042	\$4,061	\$5,252	\$4,121	\$4,183	\$2,894	\$2,810
<b>Months in Reserve</b>	11.1	17.3	16.2	16.1	12.4	12.4	8.4	8.0
* Includes beginning balance adjustments; ** Includes direct draws from SCO and Fi\$cal; *** Projected to spend full budget								

During the last four years, the Board has spent approximately 40% of its budget on the enforcement program, 33% on the examination program, 21% on the licensing program, 6% on administration, and 18% on pro rata.

<b>Expenditures by Program Component</b>								
	FY 2010/11		FY 2011/12		FY 2012/13		FY 2013/14*	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$501,544	\$546,082	\$483,669	\$672,519	\$490,384	\$625,875	\$531,694	\$474,348
Examination	\$423,526	\$662,008	\$408,432	\$412,771	\$403,204	\$522,674	\$437,171	\$348,933
Licensing	\$356,653	\$211,374	\$343,943	\$235,691	\$348,717	\$263,095	\$378,094	\$161,362
Admin.**	\$111,454	\$65,903	\$107,482	\$73,523	\$108,974	\$82,096	\$118,154	\$50,426

Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>TOTALS</b>	\$1,39M	\$1,49M	\$1,34M	\$1,39M	\$1,35M	\$1,49M	\$1,47M	\$1,04M
DCA Pro Rata***		\$437,427		\$479,387		\$499,955		\$538,738
* Governor's Budget FY 14/15; ** Administration includes costs for executive staff, board, administrative support, and fiscal services; *** DCA Pro Rata included in OE&E								

**Staffing Levels**

Currently, the Board has two vacant Office Technician positions. Recruitment efforts are currently underway to have both positions filled in March. The Board works to expeditiously fill vacant positions to ensure adequate staff resources are available to meet the Boards' objectives. The Board's vacancies have mainly been in the entry level Office Technician classification. Other professional class positions, such as Staff Services Analyst, Associate Governmental Program Analyst, and Staff Services Manager have a lower vacancy rate. Vacancies are often attributed to other promotional opportunities, a common civil service occurrence. The Board has been successful in reclassifying positions when needed to ensure appropriate classifications are available to meet operational needs.

The Board utilizes DCA's Workforce and Succession Plan and has identified mission critical positions that have a significant impact on the Board and require specialized job skills and expertise. The Board is refining the plan to develop strategies to retain the expertise and staff knowledge so that it is preserved for the future and on a continual basis.

**Licensing**

The Licensing Program provides public protection by ensuring licenses are issued only to applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial. Candidates must document eight years (earned through education, work experience, internship, or a combination of each), and successfully complete both a national examination (Architect Registration Examination (ARE) or an equivalent) and the CSE. The Board had 20,504 licensees in the last fiscal year, of which 3,768 were out-of-state and 182 were out of country licensees. These numbers have been relatively consistent over the past four fiscal years. In the last fiscal year, the Board received 2,373 initial applications for licensure or for examination, and approved 2,148 of those applications. The Board issued 481 initial licenses.

The Board's performance target for processing applications and issuing licenses is 30 days from receipt of the application. When the application is complete, all requirements are met (e.g. the submission of required supporting documentation like certified transcripts and employer verification forms), and there is no criminal history, the Board typically meets this goal.

Candidates may submit applications for the ARE, CSE, and licensure at any time. If a candidate applies immediately upon passing all examinations, the license is typically issued within 30 days after receipt of the completed application and fee. However, a significantly greater than anticipated influx of applications can present a challenge for staff in meeting performance expectations and may cause slightly longer (seven to ten additional days) processing times. However, management monitors the volume of applications through weekly reports and makes the appropriate adjustments to workflow and staffing necessary for achieving performance targets. When the volume of applications and staffing shortages delay processing, the Board temporarily redirects available staff from other units. In addition, processes are routinely evaluated for efficiency to maximize staff performance and achieve performance expectations. Next year, when the Board is migrated to the DCA enterprise-wide

licensing and enforcement system (BreEZe), it is anticipated that additional process efficiencies will be realized.

Individuals who are licensed in another jurisdiction and applying for reciprocity must request that their state board provide a license certification to substantiate licensure, license status (i.e., current, delinquent, suspended, etc.), and information on disciplinary action. Additionally, the certifying board must provide the examination history detailing what form of the ARE was taken and when each component was passed. Reciprocal licensure candidates may substitute the National Council of Architectural Registration Boards (NCARB) Certificate in lieu of the above, which will provide information on education, if any, examination, and internship (experience). An NCARB Certificate demonstrates that an individual has met the highest professional standards, and therefore makes it easier to obtain reciprocal registration in other jurisdictions.

The Board's applications also include questions about the candidate's criminal and disciplinary history. Candidates responding "yes" to either or both questions are referred to the Board's Enforcement Unit for review and possible disciplinary action. The Board is not statutorily authorized to fingerprint candidates for an architect license.

### **Veterans**

The Board considers military education, training, and experience the same as that from any other source, provided it is related to the practice of architecture. Education, training, and experience must fall within the parameters established in Title 16 of the California Code of Regulations (CCR) Section 117 to receive credit towards the minimum eight-year experience licensure requirement. The Board has implemented the requirements of BPC Section 114.5 to track and identify veterans. Currently, no veteran, or candidate seeking reciprocal licensure who are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California, has requested expedited processing or a fee waiver.

### **Examinations**

Each candidate for licensure is required to complete both the national ARE and CSE to receive licensure.

#### ***Architect Registration Examination (ARE)***

The ARE is a practice-based examination developed by NCARB, and its content is based on an analysis of architectural practice. The most recent "Practice Analysis" was conducted by NCARB in 2012. The ARE has been developed with specific concern for its fidelity to the practice of architecture; that is, its content relates to the actual tasks an architect encounters in practice. No single examination can test for competency in all aspects of architecture, which is why the ARE is not the only requirement to become a licensed architect. Education and experience are also crucial licensure requirements. ARE 4.0 is comprised of seven divisions, and each division of the ARE is administered and graded by computer. The following divisions are tested: (1) Programming, Planning, Practice (PPP); (2) Site Planning and Design (SPD); (3) Building Design and Construction Systems (BD); (4) Schematic Design (SD); (5) Structural Systems (SS); (6) Building Systems (BS); and (7) Construction Documents and Services (CDS).

Candidates must pass each division of the ARE independently and receive credit for divisions passed, but must retake those divisions not passed. While there is no opportunity for involvement on scoring and analysis for the ARE, Board members have been involved in writing questions for the

examination. In addition, the Board periodically conducts an exam review wherein NCARB opens a test center in California for Board members to view the exam and test its software.

### ***California Supplemental Examination (CSE)***

California's large physical size, massive and diverse population, varied landscape and climate, high seismicity, distinctive legal framework, and expansive economy create an unusually demanding environment for architectural practice. These complexities are further exacerbated by the pressure to accommodate change with increased speed, requiring architects to stretch the limits of their capacity to practice safely. Due to these unique needs and regulatory requirements, California administers the CSE to ensure that candidates have the necessary architectural knowledge and skills to respond to the conditions found in California. The CSE tests for those aspects of practice unique to California, including seismic design, accessibility, energy conservation, environmental concerns, and legal issues, as well as those aspects of practice that are not adequately tested for in the ARE. The Board administers the CSE to candidates who have successfully completed all seven divisions of the ARE, as well as to eligible licensees from other jurisdictions and countries, all of whom must pass the CSE prior to receiving licensure.

### **School Approval**

The National Architectural Accrediting Board (NAAB) is the only entity nationally recognized to accredit professional and post-professional degree programs in architecture within the U.S. NAAB accredits the degree programs within the schools, not the schools themselves. NAAB reviews programs every three to six years. The Board accepts credits from both accredited and non-accredited programs, or programs that are not accredited by NAAB. The Board is not statutorily authorized to approve schools of architecture. The Bureau for Private Postsecondary Education does not play any role in the process of approving schools of architecture or architectural degree programs for the purposes of the Board.

### **Enforcement**

In evaluating a Board's enforcement program, it is important to reflect on the nature of the profession being regulated. Architects often collaborate with other parties (engineers, landscape architects, attorneys, contractors, and other architects) who provide additional quality control, and their plans must be approved by local building departments. Thus, there are parties who can identify problems earlier in the process so that cases that come to the Board typically do not deal with major property damage or bodily injury.

The Board adopted an Enforcement Improvement Plan in 2010. This Plan, in part, included implementing DCA's Performance Measures, defined by DCA's Consumer Protection Enforcement Initiative (CPEI) and facilitating coordination with other entities, such as the Office of the Attorney General and the Division of Investigation (DOI).

The Board is exceeding its goal of assigning complaints to staff for investigation within seven days by taking an average of only three days to assign complaints. In addition, for FY's 2010/11, 2011/12, 2012/13, and 2013/14, the Board averaged 246 days, 145 days, 92 days, and 131 days respectively to investigate a complaint, compared to the 270 day goal under CPEI.

The Board received an average of 275 complaints per year since FY 2010/11, but the average number of complaints decreased 8% since the previous reporting period. Complaints given the highest or "urgent" priority include imminent life and safety issues, severe financial harm to clients, egregious



pattern of complaints, and project abandonment. Complaints given a “high” priority level include those that involve aiding and abetting, and unlicensed practice. The more common complaints are contract violations, unlicensed advertising violations, and routine settlement reports. Enforcement staff closed 53% of investigations within 90 days and 90% within one year. The average number of days from receipt of a complaint to the closure of investigation was 158 days for all cases, which is a 46% reduction since the last reporting period. During the previous reporting period, the average number of days to complete an investigation was 294 days, and 34% of investigations were closed within 90 days.

Since the last reporting period, the average number of advertising complaints received by the Board increased 5% to 118 per year. The average number of settlement cases received also increased 34% to 35 per year. The Board received an average of 74 complaints per year against licensees, which is a 9% decrease since 2010. The Board also received an average of 49 unlicensed activity complaints, which is a 38% reduction since the previous reporting period.

The Board's citation program, authorized under 16 CCR 152, provides it with an expedient method of addressing violations involving unlicensed activity, advertising violations, and less serious practice or technical violations that do not result in substantial harm. Since the Board's last report in 2010, the number of citations issued has decreased. This may be due, in part, to the Board's efforts to reduce the number of pending cases during the last reporting period, which included closing a number of older cases that resulted in the issuance of a citation. For this reporting period, citations average 22 per year. Of the citations issued, all included a fine assessment, averaging \$2,500 per citation. The Board uses the Intercept Program through the Franchise Tax Board to collect fines, which captures funds from State tax refunds and Lottery proceeds

The Board filed seven accusations, one petition to revoke probation, and two statements of issues during the current reporting period (FY 2010/11 through FY 2013/14), which is a 25% increase from the previous review period. Eleven cases resulted in disciplinary action compared with four cases in the previous reporting period, an increase of 175%. The severity of the sanctions imposed on licensees has also increased since the last review. During this review period, the Board revoked four licenses, ordered probation for six licensees (two with actual suspensions), and one licensee surrendered his license.

<b>Enforcement Statistics</b>			
	FY 2011/12	FY 2012/13	FY 2013/14
<b>COMPLAINTS</b>			
Received	228	296	294
Closed	0	0	0
Referred to INV	228	296	294
Average Time	3	3	2
Source of Complaint			
Public	123	92	80
Licensee/Professional Groups	19	73	70
Governmental Agencies	57	61	115
Other	29	70	29
<b>INVESTIGATIONS</b>			
All Investigations			
First Assigned	228	296	294
Closed	280	279	228

Average days to close	147	91	126
Pending (close of FY)	70	87	153

Over the past three fiscal years, the Board initiated five disciplinary cases that were referred to the Attorney General's office. These cases averaged 559 days to complete, but in the last two fiscal years, averaged only 421 and 405 days to complete, which exceeds CPEI's 540 day goal. Two cases are still pending.

In addition to formal discipline, the Board also sends out cease and desist letter and issues citations for violations of the Act or unlicensed practice. The Board has sent out an annual average of 160 cease and desist letters each year over the past three years. Over the past three fiscal years, the Board has issued roughly 23 citations each year, each averaging 331 days to complete, and assessed roughly \$44,000 each year in fines. The Board has collected an average of \$28,000 in fines each year.

Enforcement Aging	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	Cases Closed	Average %
<b>Attorney General Cases (Average %) (540 day target) Closed Within:</b>						
1 Year	2 (28.6%)	1 (33.3%)	0 (0%)	0 (0%)	3	25%
2 Years	1 (14.3%)	0 (0%)	1 (100%)	1 (100%)	3	25%
3 Years	2 (28.6%)	1 (33.3%)	0 (0%)	0 (0%)	3	25%
4 Years	1 (14.3%)	0 (0%)	0 (0%)	0 (0%)	1	8.3%
Over 4 Years	1 (14.3%)	1 (33.3%)	0 (0%)	0 (0%)	2	16.7%
Total Cases Closed*	7	3	1	1	12	100%
<b>Investigations (Average %) (270 day target) Closed Within:</b>						
90 Days	116 (38.2%)	144 (51.4%)	199 (71.3%)	120 (52.6%)	579	53.1%
180 Days	61 (20.1%)	48 (17.1%)	45 (16.1%)	62 (27.2%)	216	19.8%
1 Year	66 (21.7%)	66 (23.6%)	24 (8.6%)	30 (13.2%)	186	17%
2 Years	33 (10.9%)	21 (7.5%)	8 (2.9%)	14 (6.1%)	76	7%
3 Years	18 (5.9%)	1 (0.4%)	3 (1.1%)	1 (0.4%)	23	2.1%
Over 3 Years	10 (3.3%)	0 (0%)	0 (0%)	1 (0.4%)	11	1%
Total Cases Closed	304	280	279	228	1091	100%

\*Includes Accusations, Statements of Issues, and Petitions to Revoke Probation.

## PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The Board was last reviewed in 2011 by the Senate Business, Professions and Economic Development Committee. During its last review, the Committee raised nine issues. Below are actions which have been taken over the last four years to address a number of these. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under "Current Sunset Review Issues."

- Is the current fee structure appropriate for the Board to effectively regulate the profession?

*The Board increased its fees from \$200 to \$300 in 2010 to keep its fund condition solvent. In addition, the Board transitioned its CSE from an oral format to a computer-based format beginning February 2011, which resulted in such savings that the Board is pursuing a negative BCP in order to reduce the level of expenditure authority for examinations. The Board maintains that its biennial renewal cycle provides sufficient predictability and that modifying*

*its cycle would require costly programming and Board/DCA resources in light of its pending BreEZe implementation.*

- Does the Board dedicate enough resources to enforcement?

*The Enforcement Program has consistently met and exceeds CPEI standards, and has improved its case aging by 46%. The Board has also enhanced its enforcement resources and now has a manager to oversee the Enforcement Unit, and now spends 40%, whereas in the last reporting period the Board was at 34% (other design-related boards spent 27% in the last review period).*

- Board's role overseeing architects working in nontraditional practice areas:

*The Board tracked changes in the profession and assessed the effect of architects in nontraditional practice areas, and has not observed consumer issues relative to “non-traditional, non-practice-related areas.”*

- Should the Board be granted permanent statutory authority to implement its Intern development program (IDP)?

*The Board's internship requirement is now comprised solely of NCARB's IDP, a national structured internship program required by all 50 states and wherein interns gain experience in specified practice areas for designated amounts of time – a total of 5,600 hours in 17 distinct experience areas. In 2012, the Board streamlined the internship process by repealing the Comprehensive Intern Development Program (CIDP), which was the Board's evidence-based overlay that worked in conjunction with NCARB's IDP. This was done because of the many improvements to IDP over the last ten years, and NCARB continues to constantly improve its program. The Board will continue to monitor IDP's evolution.*

- CSE was previously administered orally but will now be administered via computer centers.

*The Board's computer-based multiple-choice format for the CSE has generally performed well since it was first launched more than three years ago on February 2, 2011. The transition to a computer-based format has made the CSE more accessible and has proven to be tremendously convenient to candidates in the following ways: testing availability (six days a week – approximately 300 times per year); number of available testing locations (now 17 in-state and 22 out-of-state); and as of June 1, 2012, immediate release of test results at the conclusion of the exam. The Board is using the data received from NCARB's practice analysis in 2012 for informing its 2014 CSE Occupational Analysis (OA). The Board also included stakeholder focus group meetings (involving general building contractors, engineers, land surveyors, landscape architects, and building officials) as part of its 2014 OA to provide additional information on job tasks and knowledge required of architects. The Board will also be completing a review of the national ARE and its test specification along with a study to determine the appropriate content for ongoing CSE development. Examination development is conducted on a continuous basis with new examination forms routinely being released.*

- California's passage rates for the ARE have been consistently lower than the national average, sometimes significantly lower.

*Reasons for various rates include California's flexible eligibility standards, which: do not require an accredited degree; only recently adopted the national IDP (2005) as a prerequisite; and allow candidates to take the exam after attaining only five years of education or equivalent experience. In addition, California's size and diversity may also play a role in examination scores. However, recent data analysis shows California candidate performance has noticeably improved since the last Sunset Review.*

- Architects are now required to complete five hours of mandatory continuing education (CE) courses on disabled access requirements as a condition of license renewals. CAB cites CE as one reason for need for a fee increase yet seems to be interested in establishing comprehensive CE requirements.

*In 2009, the Board supported legislation to build a comprehensive CE system based on health, safety, and welfare requirements, preferring a comprehensive approach to a piecemeal program. Roughly a decade prior, the Board had considered but did not support the idea of continuing education, based on a study. Since that time, many things have changed in the practice of architecture, as well as in the Board's environment. According to the Board, the complexity of the practice of architecture has been increasing exponentially. New technologies, construction methods and materials, project delivery systems, regulations, and codes add to the dynamic context in which architects practice. Seismic issues, energy conservation, sustainability, disabled access, fire prevention, security, etc. are all critical and rapidly evolving issues that architects must be well prepared to address if they are to adequately protect the public. In addition, the Board has its own CE requirement via SB 1608 (Corbett, Chapter 549, Statutes of 2008).*

- A consumer satisfaction survey performed by CAB shows that on average, only about 23% of consumers were satisfied with the overall service provides by CAB during the complaint process.

*Since the last review in 2010, consumer satisfaction has increased 52%, with 75% of the consumers surveyed satisfied with the overall service provided. The Board believes that this is likely due to the improved case aging statistics. Additionally, the Board continues to perform consistently within CPEI standards and is providing more information to complainants regarding the actions it is authorized to take, as well as what it does not have authority to pursue, such as seeking refunds.*

- Should the licensing and regulation of architects be continued and be regulated by the current Board membership?

*SB 543 (Steinberg, Chapter 448, Statutes of 2011), extends the Board's sunset date until January 1, 2016.*

## **CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA ARCHITECTS BOARD**

The following are unresolved issues pertaining to the Board, or those which were not previously addressed by the Committees, and other areas of concern for the Committees to consider along with

background information concerning the particular issue. There are also recommendations Committee staff have made regarding particular issues or problem areas which need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

## **ADMINISTRATIVE AND LICENSING ISSUES**

### **ISSUE #1: TRAVEL RESTRICTIONS. *Should the Committees encourage travel to professional conferences or meetings that directly affect licensure of California licensees?***

**Background:** Several boards have reported difficulty receiving approval on in-state and out-of-state travel. Like many other professional licensing boards, the Board relies upon a national examination, the ARE, which is developed, administered, and scored by NCARB, and NCARB's IDP in lieu of its own. Additionally, the Board relies upon NCARB's Certificate when granting reciprocity for out-of-state licensees, and also relies upon NCARB's database when searching a candidate's history for disciplinary actions reported by other state boards. NCARB is also a leader in standardizing requirements to help with reciprocity among states. The Board's involvement in NCARB efforts, like the practice analysis, helps ensure that NCARB projects, programs, and policies reflect California's needs. As such, the Board's participation is critical to ensure California's interests are expressed and that the Board is given consideration in decisions that affect California stakeholders.

The NCARB Annual Meeting and the Regional Summit are held each year and are typically out-of-state. The Board has not received approval to attend these out-of-state meetings with Board funds over the last four years. While the cost of a Board Member traveling to an out-of-state meeting is a fraction of a percent of the Board's budget, attendance can yield exponential benefits that can save significant resources. For example, at one NCARB Annual Meeting that the Board was not authorized to attend, a change regarding exam scores was adopted and impacted the Board with nearly \$100,000 in costs that might have been avoided had the Board been in attendance to voice California's concerns.

The Board has had recent success in gaining approval for travel. While the current Administration has an understanding regarding the criticality of national issues, the number of individuals authorized to travel is often reduced by the DCA, Business, Consumer Services and Housing Agency, or the Governor's Office. As such, the Board is not able to fully participate and effectively represent the needs of California. Travel requests have been cut even when trips are "funded" by its national associations and there is no cost to the State of California. The Board asserts these national association meetings are "mission critical" and crucial to fulfill the respective statutory missions, and that Board Members, who are leaders in the profession, would not make the required sacrifices in their time, and subsequently, their income, to participate if such meetings were not mission-critical.

The Board notes that influencing national standards and programs requires full participation because other organizations, states and territories often send their entire board and key staff to the meetings. The result is that smaller, fully participating boards, such as Alaska, Guam, and South Carolina, have much more influence, and essentially control national standards and policy. The Board reports that this is a tremendous challenge and has a major negative impact on the Board and profession. Fostering change and influencing national standards and policy is a significant, strategic, and labor-intensive effort that requires a full complement of Board members to effectively represent the interests of the State of California.

**Staff Recommendation:** *The Committees should encourage the Board to pursue opportunities at which its Members and Officers can interact directly with their national peers, and provide a strong voice for California's unique perspective and needs. The Board should inform the Committees of whether it continues to face travel restrictions that prohibit it from attending meetings where its representation could significantly impact California's ability to ensure that national examinations or standards reflect California's needs and protect California licensees, candidates for licensure, and consumers.*

**ISSUE #2: PRO RATA.** *What services does the Board receive for its share of pro rata?*

**Background:** Through its various divisions, DCA provides centralized administrative services to all boards and bureaus. Most of these services are funded through a pro rata calculation that is based on "position counts" and charged to each board or bureau for services provided by personnel, including budget, contract, legislative analysis, cashiering, training, legal, information technology, and complaint mediation. DCA reports that it calculates the pro rata share based on position allocation, licensing and enforcement record counts, call center volume, complaints and correspondence, interagency agreement, and other distributions. In 2014, DCA provided information to the Assembly Business, Professions and Consumer Protection Committee, in which the Director of DCA reported that "the majority of [DCA's] costs are paid for by the programs based upon their specific usage of these services." DCA does not break out the cost of their individual services (cashiering, facility management, call center volume, etc.). The Board reports that it receives the following services from DCA for its pro rata: accounting, budget, contracts, executive assistance, information technology, investigation, legal affairs, legislative and regulatory review, personnel, and public affairs. While it appears DCA provides assistance to the Board, it is unclear how the rates are charged and if any of those services could be handled by the Board instead of DCA for a cost savings.

During the last four years, the Board has spent an average of 14% of its budget (18% of expenditures) on pro rata costs, and this amount has remained relatively steady.

**Staff Recommendation:** *The Board should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. In addition, the Board should discuss whether it could achieve cost savings by providing some of these services in-house.*

**ISSUE #3: BREEZE IMPLEMENTATION.** *The Board was supposed to be part of BreEZe's Release Three, which has now been delayed until at least 2016.*

**Background:** The "BreEZe Project" was designed to provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. The updated BreEZe system was engineered to replace the existing outdated legacy systems and multiple "work around" systems with an integrated solution based on updated technology.

According to DCA, BreEZe is intended to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. In addition, BreEZe is web-enabled and designed to allow licensees to complete and submit applications, renewals, and the necessary fees through the internet when fully operational. In addition, the public will be able to file complaints, access complaint status, and check licensee information, when the program is fully operational.

According to the original project plan, BreEZe was to be implemented in three releases. The budget change proposal that initially funded BreEZe indicated the first release was scheduled for FY 2012–13, and the final release was projected to be complete in FY 2013–14.

In October 2013, after a one-year implementation delay, the first ten regulatory entities were transitioned to the BreEZe system. Release Two is scheduled to go live in March 2016, three years past the initial planned release date. As a result of significant cost and implementation concerns, among others, DCA reported in late 2014, that the current vendor contract is no longer in place, and those regulatory entities that were scheduled for Release Three will not transition to the BreEZe system. Currently, the technology upgrade, intended by BreEZe, is on hold as DCA, Caltech and DGS determine the appropriate next steps.

The Board was scheduled for Release Three, and with the cancellation of the BreEZe contract, it is unclear when the Board will undergo technology upgrades that aim to increase efficiencies for licensees and Board staff. A recent audit report conducted by the California State Auditor, California Department of Consumer Affairs' BreEZe System, found that "the future implementation of BreEZe is uncertain at best and, as it relates to the regulatory entities originally included in the final release [Release Three], likely unfeasible." To date, the Board has spent approximately \$141,867 on BreEZe expenditures to prepare for the BreEZe system transition. The auditor's report also noted that "Consumer Affairs is not responsible for funding the project costs; rather, the total costs of the project are funded by regulatory entities' special funds, and the amount each regulatory entity pays is based on the total number of licenses it processes in proportion to the total number of licenses that all regulatory entities process."

**Staff Recommendation:** *The Board should inform the Committees of any difficulties it foresees as a result of having to remain on its legacy system, and whether any additional stop-gap technological measures are needed until BreEZe is implemented. The Board should inform the Committees of how costs related to BreEZe will impact its fund condition.*

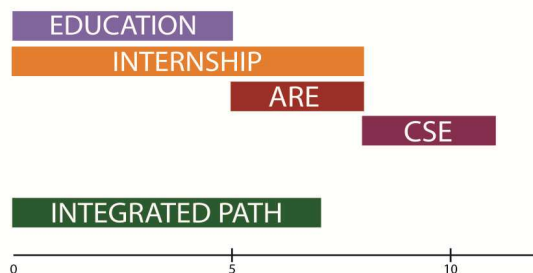
**ISSUE #4:** LICENSURE AND LICENSEE POPULATION. *Should the Board continue to explore ways to streamline the licensure process? Should the Board examine whether there is a shortage of licensed architects and capacity for architecture programs to train students?*

**Background:** The Board has been concerned about the shortage of architects that consumers encounter during robust economic times. Such a scenario may result in consumers utilizing unqualified practitioners to the detriment of the public health, safety, and welfare. No data is available on workforce shortages. However, the Board is beginning to hear anecdotal evidence that firms are having difficulties finding architects to hire as the economy expands. It is quite possible that a more integrated approach to licensing will produce more architects.

The Board has amended regulations and implemented process efficiencies to reduce the length of time for eligibility evaluation, such as repealing the requirement for candidates to complete the Board's CIDP and allowing candidates to take the ARE prior to completion of the NCARB IDP. NCARB has also taken measures to remove hindrances, such as permitting candidates to begin IDP upon graduation from high school. However, the current eight-year model, with five years of education/equivalents, a three year experience component, and a national and state examination, can take some candidates as

much as 11 years. While the licensing process is candidate-driven, the system itself must be examined from time to time.

The Board is considering whether the licensure process can be streamlined and synthesized. In 2013, Board staff drafted a white paper that proposed a potential model for a program that targeted community college transfer students. The Board convened the accredited schools of architecture (nine of the ten participated) to discuss integrating licensure into education at its February 2014 meeting. A potential model that was articulated compresses the current eight year system into a six or seven year process that would culminate with the degree and the license to practice. This innovative model would be similar to that used in some other countries and would represent a monumental, but logical, configuration of the three components of licensure (education, experience, and examination).



*Note.* This table was taken from the CAB 2014 Sunset Review Report

Simultaneously, at the national level, NCARB convened a task force to rethink the licensure process to determine whether or not there may be overlap and opportunities for efficiencies to be realized. Its first meeting was in September of 2013. Ultimately, NCARB released a “Request for Interest and Information” in September of 2014. Based on the responses, NCARB released a Request for Proposals in January 2015. The Board is aware of at least two California schools that will be pursuing a proposal. NCARB believes that the new system should not be prescriptive, and must be respectful of the diverse missions of the institutions. It should be noted that Board Vice President Pasqual Gutierrez is a member of the task force, once again underscoring the criticality of participation in national affairs.

The Board believes that the “Accelerated Path to Architectural Licensure” (they have also been referred to as Integrated Degree Programs, Additional Path to Licensure, and Integrated Path to Licensure, etc.) can be a powerful model that creates a stronger pipeline into the profession. The Board believes it is vitally important that it work with the profession to ensure the path to licensure is efficient and effective so that California’s best and brightest are able to navigate the system and enter the profession. The Board also notes a number of considerations that must be evaluated to further the efforts regarding the new licensure model, including: (1) whether someone could be eligible for an examination prior to accumulating five years of experience or education; (2) whether eligibility for ARE divisions should be tied to completing any corresponding coursework; (3) whether there are any issues associated with the license with degree concept; (4) what the impact is on California candidates who do not pursue the new degree type; and (5) whether there is sufficient capacity at architecture schools to accommodate new, more integrated programs.

Student capacity is another issue identified by the Board, which notes that California's public schools of architecture (University of California, Berkeley; University of California, Los Angeles; California Polytechnic State University, San Luis Obispo; and California State Polytechnic University, Pomona)



have not added seats to their programs in nearly 20 years. During that time, California's population has increased by nearly 30% (8 million), and the demand for housing, schools, colleges/universities, hospitals, etc. has grown commensurately. Together, the four public schools receive approximately 4,000 applications, yet are only able to enroll about 400 students. (There are six additional schools that are accredited in the state.) The Board notes that lack of capacity means that many of California's best and brightest students who wish to study architecture must go to other states, and may not return. Lack of capacity can also force students to work in the underground economy as unlicensed designers, or reduce the ability of California firms to compete with out-of-state firms and result in California "importing" more architectural services than it exports.

According to California's Employment Development Department, the architecture profession is expected to increase 12.8% over the next 10 years, or from roughly 13,300 licensees to approximately 15,000 licensees. The projected number of new licensees needed each year to make up for new growth and to replace existing jobs is roughly 480.

***Staff Recommendation:*** *The Board should continue to explore streamlined paths to licensure as a way to simplify the licensure process. The Board should continue monitoring the efforts of, and working closely with, NCARB, to ensure that any proposed changes to the licensure process do not affect competency or create reciprocity issues, and that California's needs are represented at the national level. The Board should monitor workforce capacity to determine if the demand for licensed architects is, and will continue to be, met.*

***ISSUE #5: CONTINUING EDUCATION (CE).*** *The Board notes that it has examined its CE requirement due to recent legislation and changes to the NCARB Model Law, and continues to monitor its CE requirement to ensure reciprocity issues do not exist.*

***Background:*** SB 1608 (Corbett, Chapter 549, Statutes of 2008), required architects to complete five hours of CE courses on disability access requirements as a condition of license renewal. The bill also required licensees to certify completion of coursework and provide complete documentation from the course provider to the Board with the renewal application, which the Board had to verify. Failure to complete an appropriate course or submittal of incomplete course documentation resulted in the non-renewal of a license and licensees were notified accordingly. Upon compliance with the coursework documentation, the license renewal was processed. Beginning in 2013, as a result of AB 1746 (Emmerson, Chapter 240, Statutes of 2010), licensees are required to certify completion of CE and the Board is required to conduct audits for verification of compliance for 3% of the renewal licensees. Now, only upon audit does an architect need to provide coursework documentation to the Board as substantiation of CE requirement compliance. Licensees are referred to the Board's Enforcement Unit if they do not respond to the Board's requests for information, complete the required CE within two years prior to license renewal, provide false information on documentation, or fail to correct a deficiency. Licensees who do not complete the appropriate CE coursework or submit the required CE verification material may be subject to an administrative citation, which may include a fine or disciplinary action by the Board.

Currently, the Board audits three percent of the license renewals received each year to verify compliance with the CE requirement. In FY 2013/14, there was an increase in the Board's overall number of enforcement cases due to the addition of CE-related cases.

<b>Fiscal Year</b>	<b>Audits Conducted</b>	<b>Licensees Failing Audit</b>
2012/2013	251	39 (16%)
2013/2014	365	51 (14%)

AB 623 (Emmerson) of 2009 and changes to NCARB's Model Law prompted the Board to examine its CE requirement. At the national level, NCARB has been a leader in standardizing requirements to promote better mobility between states and thus, has made changes to its model law with regard to CE. In addition, NCARB's recent "CE Report - 2012 Practice Analysis of Architecture" offers an empirical basis for future CE discussions. In any potential future actions on CE, the Board will certainly consider any models for performance based assessments of continuing competence. However, the Board notes it will be mindful of CE requirements in other jurisdictions to ensure that reciprocal licensure is preserved.

***Staff Recommendation:*** *The Board should inform the Committees of why its failure rate for CEs is so high, and how it can reduce that rate. The Board should continue to monitor the trend regarding CEs at the national level.*

***ISSUE #6: INFORMATION SHARING.*** *The Board reports that it is unable to share relevant disciplinary information of its licensees with a national database due to information-sharing restrictions.*

**Background:** The Board is not statutorily authorized to fingerprint applicants for an architect license. However, applicants must disclose their criminal and disciplinary history, and the Board checks the NCARB's database prior to issuing licenses. The NCARB maintains a database available to its membership that contains disciplinary actions reported by participating Member Boards. The NCARB is currently working on a 2.0 version of the disciplinary database that would utilize personally identifiable information and better assist Member Boards. Unfortunately, the Board notes that due to the Information Privacy Act (Civil Code Section 1798 et seq.), it is unable to share the information necessary for inclusion in the database and full participation in the project. The Board notes that if it were granted the authority by the Legislature to provide sufficient information to NCARB, then the NCARB disciplinary database would become an invaluable tool.

Currently, Section 137 of Title 16 of the California Code of Regulations (CCR) requires the Board to maintain a public information system to provide information regarding complaints and disciplinary or enforcement actions against licensed architects and unlicensed persons subject to the Board's jurisdiction. Information subject to the public information system is disclosed to the public upon request by telephone, in person, or in writing (including fax or email). The information is made available by the Board in writing or by telephone. Requests for information are responded to within ten days. The following information is disclosed regarding license status of past and current licensees:

1. Name of the licensee, as it appears on the Board's records;
2. License number;
3. Address of record;
4. License issue date;
5. License expiration date; and
6. License status and history.

The Board also discloses the total number of enforcement and disciplinary actions, as well as brief summaries. It provides the current status of pending complaints that comply with the criteria for disclosure pursuant to 16 CCR 137, accusations, statements of issues, and citations filed by the Board.

**Staff Recommendation:** *The Board should inform the Committees of the specific types of information it would like to disclose to NCARB, and provide the Committees with the specific code sections that prevent the Board from disclosing that information. The Board should also weigh the benefits of sharing disciplinary information to assist other regulatory entities against the individual privacy rights, and potential threats to those rights.*

## **ENFORCEMENT ISSUES**

**ISSUE #7: COLLECTION OF FINES.** *The Board notes that it is seeking ways to increase collection of fines, particularly in cases of unlicensed practice when it does not have the leverage of a license to incentivize payment.*

**Background:** The Board is proud of its enforcement accomplishments. Its performance in terms of case aging and case load represent significant improvement over the last five years. Nevertheless, the Board seeks continuous improvement. One area in particular is that of unlicensed practice.

The Board's citation program is an effective tool and the Board believes it makes good use of that program. For the program to be more impactful, however, the monetary penalty must be "real." Licensees who are cited fail to pay the assessed fines have a "hold" placed on their license record that prevents renewal of the license until the fine is paid. However, the majority of citations issued were to unlicensed individuals, who are often difficult to locate because they change addresses frequently and do not advertise with typical contact information. In addition, many unlicensed individuals choose to ignore the citations and not pay the penalty, as they do not have a license that is in jeopardy. Difficulty in finding unlicensed subjects has a negative impact on the Board's case aging. The Board has requested the Division of Investigation's (DOI) assistance and has achieved some success to date.

The Board does not currently have an effective mechanism to take additional action against these unlicensed individuals. The Board uses the Intercept Program through the Franchise Tax Board, which captures funds from State tax refunds and Lottery proceeds, but success in collecting via this program has not been significant, as the potential sources of recovery are Lottery proceeds and tax refunds.

The Board believes that collection agencies could also play a valuable role in recovering funds from citation penalties. Currently, the Board does not have authority to release Social Security Numbers (SSNs) to collection agencies. The Board understands that statutory authority to release SSNs was considered as part of the SB 1111 (Negrete McLeod) of 2010 discussions, but ultimately the issue was not moved forward.

The Board is also interested in exploring the possibility of requiring the satisfaction of citation penalties as a condition of receiving other State services, such as driver's license and vehicle registration, similar to how licenses cannot be renewed if there are outstanding family support or tax liabilities. The Board has also discovered that unlicensed individuals sometimes hold a license issued by another DCA board. The Board is interested in collaborating with other related boards (Contractors State License Board, Bureau of Real Estate, etc.) to develop recommendations for a program to ensure payment of fines. Under such a system, an unpaid citation from one board could preclude renewing a

license held from another board. It is possible that BreEZe could help facilitate a collaborative enforcement program such as this. Any enhancements to the effectiveness of the citation program will serve as a deterrent to help reduce the threat to consumers through unlicensed practice. The Board is also interested in exploring mediation as an additional tool to assist consumers.

***Staff Recommendation:*** *The Board should continue to explore ways to improve its enforcement efforts and collect fines. The Board should examine other agencies that are authorized to release SSNs to collection agencies, and whether there are any privacy or security issues that may arise if such information was transmitted. The Board should work with other licensing boards, such as the Contractors State Licensing Board, the Bureau of Real Estate, and the Board of Professional Engineers, Land Surveyors, and Geologists, to determine the feasibility of sharing disciplinary information for purposes of leveraging other professional licenses as a way to achieve compliance; how such a system would operate; and what changes would be necessary.*

### **CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT PROFESSION BY THE CALIFORNIA ARCHITECTS BOARD**

***ISSUE #8: CONTINUED REGULATION BY THE BOARD. Should the licensing and regulation of architects be continued and be regulated by the current Board membership?***

***Background:*** The health, safety and welfare of consumers are protected by the presence of a strong licensing and regulatory Board with oversight over architects.

The Board should be continued with a 4-year extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

***Staff Recommendation:*** *Recommend that the licensing and regulation of architects continue to be regulated by the current Board members of the California Architects Board in order to protect the interests of the public and be reviewed once again in four years.*

# LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

## BRIEF OVERVIEW OF THE LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

### History and Function of the Committee

California began regulating the practice of landscape architecture in 1953 with the formation of the Board of Landscape Architects (BLA). In 1994, the statute authorizing the existence of the BLA expired, and DCA recommended the Board as the appropriate oversight agency due to the similarities between the two professions and regulatory programs. In April 1997, stakeholders reached consensus and the Board unanimously supported legislation to establish the LATC under its jurisdiction. Legislation establishing the Landscape Architects Technical Committee (LATC) became effective January 1, 1998.

The LATC is responsible for the examination, licensure, and enforcement programs concerning landscape architects. The LATC currently licenses more than 3,500 of the over 16,400 licensed landscape architects in the United States. California has both a practice act, which precludes unlicensed individuals from practicing landscape architecture, and a title act, which restricts the use of the title “landscape architect” to those who have been licensed by the LATC.

The mission of the LATC is to regulate the practice of landscape architecture in a manner which protects the public health, safety, and welfare and safeguards the environment by:

1. Protecting consumers and users of landscape architectural services;
2. Empowering consumers by providing information and educational materials to help them make informed decisions;
3. Informing the public and other entities about the profession and standards of practice;
4. Ensuring that those entering the practice meet minimum standards of competency by way of education, experience, and examination;
5. Establishing and enforcing the laws, regulations, codes, and standards governing the practice of landscape architecture; and
6. Requiring licensure of any person practicing or offering to practice landscape architectural services.

In fulfilling its mission, the LATC has found that acting preventively and proactively is the best use of its resources. Because of the nature of the design profession, there are numerous opportunities to prevent minor problems from becoming disasters. As such, the LATC works to aggressively address issues well before they exacerbate into catastrophes. The LATC works closely with professional groups to ensure that landscape architects understand changes in laws, codes, and standards. The LATC also invests in communicating with schools, and related professions and organizations. To ensure the effectiveness of these endeavors, the LATC works to upgrade and enhance its communications by constantly seeking feedback and analyzing the results of its communications efforts. All of these initiatives underscore the LATC’s firm belief that it must be both strategic and aggressive in employing the preventive measures necessary to effectively protect the public health, safety, and welfare.

**Committee Membership**

The five-member Committee consists of technical experts (professional members) who are licensed to practice landscape architecture in this state. The Governor appoints three of the members, one is appointed by the Senate Committee on Rules, and one is appointed by the Speaker of the Assembly. Committee members serve four-year terms, and cannot serve for more than two consecutive terms.

In the past four years, the LATC has successfully held all scheduled meetings. The LATC held one meeting without a quorum, but the impact on operations was minimal, as all topics requiring a vote were successfully addressed at the subsequent meeting. The following is a listing of the current Committee members and their background:

Name and Short Bio	Date App'ted.	Date Term Expires	App'ting Auth.
<p><b>David Allan Taylor, Jr.</b>, Chair, has been a licensed landscape architect since 2003. David works as a landscape architect for the City of Chula Vista. His knowledge and skill set comes as the result of his design and management of a wide range of projects including master planned developments, parks, playgrounds, and open spaces, single and multifamily residential developments, retail centers, and office campuses. He is a Past President of the San Diego Chapter of the American Society of Landscape Architects (ASLA), Past President of the California Council of the American Society of Landscape Architects (CC/ASLA), and is a former member of ASLA's Government Affairs Advisory Committee at the national level. David has previously served as committee member on the City Heights Redevelopment Project Area Committee, and the City Heights Area Planning Committee, and has taught an introductory course in landscape architecture at The New School of Architecture and Design in San Diego. Mr. Taylor received his Bachelor of Science degree in Landscape Architecture from California Polytechnic State University, San Luis Obispo, with a minor degree in Fine Art.</p>	6/08	6/18	Sen. Rules Comm.
<p><b>Katherine Spitz</b>, Vice Chair, has been a licensed landscape architect since 1993 and a licensed architect since 1987. She has served as Principal at Katherine Spitz Associates since 1993. Ms. Spitz was principal at Burton and Spitz Landscape Architecture from 1986 to 1993, and a freelance designer for Appleton and Associates, Levitt Turner, and Studio Works from 1981 to 1983. Her involvement with landscape design and horticulture began in 1974, working with the Barnitz Nursery in Santa Barbara and for the United States Forest Service in the Los Padres National Forest. Since founding her own firm in 1993, she has worked extensively on streetscapes, public/civic projects, institutional and campus landscapes, historic restorations; commercial and residential landscapes. She was a former member of the Board of Directors for the Los Angeles Chapter of the American Institute of Architects. Ms. Spitz earned a Bachelor of Arts in Painting from University of California, Santa Barbara, and a Masters of Architecture from University of California, Los Angeles.</p>	5/12	6/16	Gov.
<p><b>Andrew Bowden</b> has been a licensed landscape architect since 1979, and served as Chair in 2009. Mr. Bowden has worked at Land Concern LTD since 1976, serving as the Principal landscape architect since 2000. His innovative design solutions have been reflected in a variety of noteworthy projects ranging from large-scale master-planned communities, parks, swim/recreation facilities and resort hotels, to high and low density residential neighborhoods and senior housing developments. He has been a contributor to many projects throughout the United States, as well as international projects in Poland, Thailand, Indonesia, and Baja California. He is a past president of the Southern California Chapter of the American Society of Landscape Architects (ASLA), and is a Chapter Trustee for the Southern California Chapter of ASLA. Mr. Bowden is Vice President of</p>	1/08	6/15	Gov.

<p>Councils for the Building Industry Association of Southern California, and is a Member of the Board of Directors of the California Landscape Architectural Student Scholarship Fund. Mr. Bowden earned an Associate of Science in Nursery and Landscape Technology from San Diego Mesa College in 1974, and received a Bachelor of Science in Landscape Architecture from California State Polytechnic University, Pomona in 1977.</p>			
<p><b>Nicki Johnson</b> has been a licensed landscape architect since 2006. She works for Beale Air Force Base in Storm Water and Environmental Compliance. She assisted the California Department of Transportation in Storm Water Design for a year. Ms. Johnson owned her own practice providing residential landscape design and private consulting on a variety of project types for two years, from 2011 to 2012. Prior to that, she worked several years at an engineering firm and five years at a landscape architectural firm. Ms. Johnson’s project experience includes streetscapes, parks, model homes, master planned communities, commercial, office developments, storm water documentation and inspections, and federal and state environmental permitting. She received her Bachelor of Landscape Architecture from California Polytechnic State University, San Luis Obispo with a concentration in Environmental Design. Ms. Johnson, is currently in the “grace period” in which she may serve one year or until the appointment of a new member.</p>	5/12	6/14	Gov.

There is currently one Speaker's appointment vacancy due to a Board Member who resigned on February 11, 2015, due to a gubernatorial appointment to the State Mining and Geology Board.

To assist in the performance of its duties, the LATC establishes subcommittees and task forces as needed, which are assigned specific issues to address. The LATC’s subcommittees/task forces and their duties are as follows:

- University of California Extension Certificate Program Task Force:** One of the pathways to licensure is successful completion of the extension certificate program, currently established within the University of California system and approved by the LATC. The University of California Extension Certificate Program Task Force is charged with: 1) reviewing extension certificate programs in landscape architecture; 2) conducting site visits of the program; 3) making recommendations regarding the continued approval of the extension certificate programs; and 4) developing procedural documents for review of the programs.
- Exceptions and Exemptions Task Force:** This Task Force was charged with: 1) determining how the LATC can ensure clarity in BPC 5641 et seq., relating to exceptions and exemptions; 2) ensuring the public is protected through those provisions; and 3) making recommendations regarding any change in language.

**Fiscal and Fund Analysis**

The recent economic climate has resulted in a variety of State Budget spending restrictions, which have impacted the LATC’s expenditures and fund condition. LATC staff and DCA Budget Office have initiated a proposal to ensure an appropriate fund balance. A one-time renewal fee-reduction effective July 1, 2015, to June 30, 2017, has been approved. LATC will monitor the fund condition to determine if the fee reduction should continue beyond June 2017. In the summer of 2014, it submitted a negative BCP to the Department of Finance to request a voluntary expenditure authority reduction of \$200,000 for FY 2015/16 and ongoing: approval is currently pending. The LATC, in consultation with the DCA Budget Office, determined that a \$200,000 reduction is appropriate due to savings from the California Supplemental Examination (CSE) and Landscape Architect Registration Examination

(LARE). Since 2011, the CSE has been a computer-based test, administered with greater efficiency. Additionally, in 2009, the national Council of Landscape Architectural Registration Boards (CLARB), instead of the Committee, began administering all sections of the LARE, significantly reducing the LATC's costs associated with exam development and administration. The negative BCP would ensure that the LATC budget reflects these efficiencies.

<b>Fund Condition</b>								
(Dollars in Thousands)	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16*	FY 2016/17*	FY 2017/18*
Beginning Balance	1,934	2,109	2,283	2,445	2,528	2,146	1,741	1,333
Revenues and Transfers	789	778	814	798	793	792	813	805
<b>Total Resources</b>	<b>2,723</b>	<b>2,887</b>	<b>3,097</b>	<b>3,243</b>	<b>3,321</b>	<b>2,938</b>	<b>2,554</b>	<b>2,138</b>
Budget Authority	1,099	1,117	1,126	1,160	1,174	1,197	1,221	1,245
Expenditures**	620	602	684	715	1,175***	1,197***	1,221***	1,245***
Loans to General Fund	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accrued Interest, Loans to General Fund	NA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Loans Repaid From General Fund	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Fund Balance</b>	<b>2,103</b>	<b>2,285</b>	<b>2,413</b>	<b>2,528</b>	<b>2,146</b>	<b>1,741</b>	<b>1,333</b>	<b>893</b>
<b>Months in Reserve</b>	<b>41.9</b>	<b>40.1</b>	<b>40.5</b>	<b>25.8</b>	<b>21.5</b>	<b>17.1</b>	<b>12.8</b>	<b>8.4</b>
* Includes beginning balance adjustments								
** Includes direct draws from SCO and Fiscal								
*** Projected to spend full budget								

During the last four years, the LATC has spent approximately 26% of its budget on the enforcement program, 31% on the examination program, 20% on the licensing program, 7% on administration, and 21% on pro rata.

<b>Expenditures by Program Component</b> (list dollars in thousands)								
	FY 2010/11		FY 2011/12		FY 2012/13		FY 2013/14*	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	106	48	117	46	98	59	113	78
Examination	94	106	104	68	87	168	101	88
Licensing	88	36	97	35	82	41	94	55
Administration*	35	15	39	14	33	16	38	22
DCA Pro Rata***	0	88	0	84	0	93	0	108
<b>TOTALS</b>	<b>324</b>	<b>293</b>	<b>357</b>	<b>247</b>	<b>300</b>	<b>377</b>	<b>346</b>	<b>351</b>
* Governor's Budget FY 14/15								
** Administration includes costs for executive staff, board, administrative support, and fiscal services.								
*** DCA Pro Rata included in OE&E								

The LATC is a special fund agency that generates revenue from its fees. The LATC's main source of revenue is from applicants and licensees through the collection of examination, licensing, and renewal



fees. These fees support the license, examination, enforcement, and administration programs, which include processing and issuing licenses, conducting an OA and ongoing examination development, maintaining records, producing and distributing publications, mediating consumer complaints, enforcing statutes, disciplinary actions, personnel, and general operating expenses. Fees for initial and renewal licensure are \$400, which is at the statutory limit. The LATC is currently analyzing whether licensing and renewal fees can be reduced from \$400 to \$350 or \$375.

### **Staffing Levels**

Currently, the LATC has one vacant Staff Services Analyst position. The LATC's position vacancies have mainly been in the Staff Services Analyst and Management Services Technician classifications, which are entry level. The vacancies are often attributed to other promotional opportunities, a common civil service occurrence. Since one staff person is allocated to each program, a single vacancy is 20% of the staffing level and can have a significant impact on workload until the position is filled. Since the last reporting period, the LATC has averaged a 25% vacancy rate each year. The LATC has been successful in reclassifying positions when needed to ensure appropriate classifications are available to meet operational needs. Hiring temporary help such as Student Assistants, Retired Annuitants, and limited-term staff has been effective in training and succession planning and minimizing interruption in workload.

The LATC utilizes DCA's Workforce and Succession Plan and has identified mission critical positions that have a significant impact on the LATC and require specialized job skills and/or expertise. The LATC is refining the plan to develop strategies to retain the expertise and staff knowledge so that it is preserved for the future and on a continual basis.

### **Licensing**

The LATC's laws and regulations require all candidates to meet the same prerequisites for licensure. Candidates must document a combination of six years education and experience and successfully complete both the LARE and the CSE.

The LATC's performance target for processing applications to sit for the licensing examinations and issuing licenses, once all examinations have been passed, is 30 days from receipt of the application. Where the application is complete, all requirements met (including the submission of required supporting documentation such as certified transcripts and a Certification of Experience form), and there is no criminal history, the LATC has been able to meet this goal.

The LATC had 3,548 active licensees in the last fiscal year, of which 477 were out-of-state and 34 were out-of-country. Seventy six licenses were issued, and 1,759 licenses were renewed, in the last fiscal year. These numbers have been relatively consistent over the last four fiscal years.

Individuals licensed in another jurisdiction and applying for reciprocity must request that their state board provide a license certification to substantiate licensure, license status (i.e., current, delinquent, suspended, etc.), and information on disciplinary action. Additionally, the certifying board must provide the examination history detailing what form of the LARE was taken and when each section was passed. Reciprocal licensure candidates may substitute CLARB's Council Record, which provides information on education, experience and examination and demonstrates that an individual has met CLARB's professional standards.

The LATC's applications include questions about the candidate's criminal and disciplinary history. The LATC is not statutorily authorized to fingerprint applicants for a landscape architect license. However, CLARB maintains a database that contains disciplinary actions reported by participating Member Boards, and the LATC's enforcement unit utilizes this resource.

### **Veterans**

The LATC has implemented the requirements of BPC Section 114.5, which requires Boards to track and identify veterans, to be in place by the effective date of January 1, 2015. LATC is already permitted by its regulations to grant credit for military training or experience that is related to the practice of landscape architecture. To date, no veterans or other candidates seeking reciprocal licensure and who are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California have requested the expedited processing or fee waivers.

### **Examinations**

Each candidate for licensure is required to complete both the LARE and CSE in order to become licensed. The LARE is a practice-based examination developed by CLARB, which is based on an analysis of landscape architectural practice. In 2009, LATC transferred the entire administration of the LARE to CLARB, resulting in significant savings. In 2011, CLARB completed a job task analysis to determine current practices in landscape architecture and subsequently updated the LARE to reflect the appropriate knowledge, skills, and abilities required for safe practice. This resulted in a four-section instead of a five-section examination. The LATC worked closely with CLARB during the task analysis and test development to ensure a smooth transition to the new examination format.

The CSE tests for those aspects of practice unique to California, such as accessibility, energy conservation, sustainability, irrigation, water management, wetlands, wildlife corridors, wildfire resistant landscapes and legal issues, such as the California Environmental Quality Act, as well as those integrative aspects of practice that are not adequately tested for in the LARE. Candidates who have passed the LARE are eligible to take the CSE. In addition, eligible licensees from other jurisdictions and countries must pass the CSE prior to becoming licensed in California.

In June 2014, the LATC completed an OA, which will be the basis for updating the CSE. An OA is a required survey that all boards for licensed professions or trades must complete to ensure that the licensing examination is valid and legal. As part of its 2014 OA, the LATC conducted focus group meetings with landscape architects and educators. The LATC reviewed the examination development process for the LARE and conducted a study to determine the extent to which the LARE measured knowledge relevant to California landscape architect practice. The LARE was found to meet psychometric standards for examination development and to measure knowledge relevant to California landscape architect practice. The examination plan for the CSE, developed as part of the OA, was further refined to minimize overlap between the LARE and the CSE while focusing strongly on California-specific landscape architect practice. By adopting the Landscape Architect California Specific Examination Plan contained in the 2014 OA, the LATC ensures that its examination reflects current practice.

### **School Approval**

The Landscape Architectural Accreditation Board (LAAB) is the only agency nationally recognized to accredit professional and post-professional degree programs in landscape architecture within the U.S. LAAB accredits the degree programs within the schools, not the schools themselves. The LATC

accepts credits from both accredited- and non-accredited programs. The LATC does approve extension certificate programs in landscape architecture. Currently, there are extension programs at the University of California, Los Angeles, and the University of California, Berkeley, which are approved through December 31, 2020. The LATC is not statutorily authorized to approve schools of landscape architecture or the professional and post-professional degree programs offered by them. The Bureau for Private Postsecondary Education does not play a role in the process of approving schools of landscape architecture or landscape architectural degree programs for the purposes of the LATC.

**Enforcement**

The LATC’s performance measures for the Enforcement Unit are defined by DCA’s Consumer Protection Enforcement Initiative (CPEI) and focus on timely response to consumer complaints and the pursuit of prompt disciplinary action against those found to be in violation of the Act.

For all complaints received, the LATC has a goal of assigning complaints to staff for investigation within seven days. The average time of assigning complaints to staff during FY 2011/12, 2012/13, and 2013/14 was two days. The LATC is exceeding expectations in this area. During this reporting period, the Enforcement Unit averaged 13 days to assign complaints. The increased intake cycle time was the result of two significant batches of complaints, the first of which commanded the majority of enforcement staff resources (which were limited due to vacancies), and the cases opened in this period required additional time to research a unique Internet Web site-related issue.

Concerning the time necessary to investigate a complaint, the LATC’s CPEI standards stipulate that complaints are to be closed within an average of 270 days of receipt. For FYs 2010/11, 2011/12, and 2012/13, the LATC averaged 345 days, 515 days, and 344 days, respectively. For FY 2013/14, the LATC reduced its average time by 15% to 293 days. To aid in improving the length of time it takes to investigate a complaint, the LATC contracted with an additional expert consultant on May 13, 2013. In addition, the LATC hired two additional temporary analysts to assist in improving the timeliness of investigations and resolution of cases.

Staff has reduced the number of pending complaints since FY 2009/10 by 73%, from 77 to 21. Since the last reporting period, the average number of advertising and unlicensed complaints received by the LATC decreased 41% to 23 per year. The LATC received an average of six complaints from the public per year against licensees, which is a 25% decrease since 2010.

<b>Enforcement Statistics</b>			
	FY 2011/12	FY 2012/13	FY 2013/14
<b>COMPLAINTS</b>			
Received	28	27	27
Closed	0	0	0
Referred to INV	28	27	27
Average Time to Close	2	2	2
Source of Complaint			
Public	5	4	6
Licensee/ Professional Groups	14	10	12
Governmental Agencies	0	0	2
Other	9	13	12
Conviction / Arrest			
CONV Received	0	0	5

Average Time to Close	N/A	N/A	1
<b>INVESTIGATION (DESK)</b>			
First Assigned	28	27	32
Closed	59	23	41
Average days to close	515	344	293
Pending (close of FY)	26	30	21
<b>COMPLIANCE ACTION</b>			
Cease & Desist/Warning	33	19	18

\*Amounts reflect fines collected, which were assessed in previous years.

Over the past three fiscal years, the LATC has referred one enforcement case to the Attorney General's office, which has been pending for 792 days and is still currently pending. The citation program provides the LATC with an expedient method of addressing violations involving unlicensed activity, repeated advertising violations, and the less serious practice or technical violations that did not result in substantial financial or physical harm. The LATC issued an average of 1.6 citations per year over the last three fiscal years, an average of \$2,500 in fines each year, which each took an average of 950 days to complete. This average is due in part to the LATC's emphasis on closing the oldest cases: FY 2009/10 to 2013/14, LATC reduced its pending caseload from 77 to 21. In addition, the total number of days to complete citations has been decreasing. In FY 2013/14, it took the LATC an average of 871 days to complete three citations, and the average number of days to close citations in 2014 was 661. The LATC's most recent citation was closed in just 271 days. Some of the LATC's delays are due to subject matter experts, the complexity of cases, and the appeals process.

All technical professional practice complaints and some unlicensed practice complaints recommended for citation are reviewed by an expert. The LATC utilizes the Franchise Tax Board (FTB) Intercept Program to attempt to collect fines; however, there is currently no incentive for these individuals to pay their fines, unlike licensees who cannot renew their license without paying. The LATC is seeking new tools to make its citation program more effective. Authority to release social security numbers to collection agencies, precluding renewal of vehicle registrations or drivers licenses when an individual's citation has not been satisfied (unpaid penalty), and denying the renewal of an occupational license when a citation has not been satisfied, are all concepts the LATC would like to explore (a significant number of the LATC's unlicensed individuals who receive citations hold a license from the Contractors State License Board). The LATC seeks cost recovery in all disciplinary cases, including accusations, statements of issues, and petitions to revoke probation.

<b>Enforcement Aging</b>						
	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	Cases Closed	Average %
<b>Attorney General Cases (Average %) Closed Within:</b>						
1 Year	0%	(1)100%	0%	0%	1	100%
Total Cases Closed*	0	1	0	0	1	0
<b>Investigations (Average %) Closed Within:</b>						
90 Days	14 (21.9%)	7 (11.8%)	9 (39.1%)	19 (46.3%)	49	26.2%
180 Days	4 (6.3%)	5 (8.5%)	1 (4.3%)	4 (9.7%)	14	7.5%
1 Year	14 (21.9%)	1 (1.7%)	3 (13.0%)	3 (7.3%)	21	11.2%
2 Years	30 (46.9%)	38 (64.4%)	8 (34.8%)	11 (26.8)	87	46.5%
3 Years	2 (3.0%)	8 (13.6%)	2 (8.7%)	4 (9.7%)	16	8.6%
Over 3 Years	(0)0%	(0)0%	(0)0%	0 (0%)	0	0%

Total Cases Closed	64	59	23	41	187	100%
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\*Accusation filed

### **Unlicensed Practice**

In most cases, consumers, licensees, or other government agencies provide evidence of unlicensed activity to be investigated. The LATC's 2010/11 Strategic Plan directed the LATC to convene a task force to determine how the LATC could ensure the clarity of BPC 5641, the statute that describes the services an unlicensed person may provide, and ensure that these provisions protect the public. The Exceptions and Exemptions Task Force, which consisted of three landscape architects, a landscape designer, a building official, a public Board member, and a lay person, was charged with: 1) determining how LATC can ensure clarity in BPC 5641; 2) ensuring the public is protected through the provisions in BPC 5641; and 3) making recommendations to the LATC for the Board to approve regarding any change in language. Currently, there are licensing exemptions for, among other things, conceptual drawings for tangible objects or landscape features and for drawings, plans, or specifications for plants for single family dwellings; licensed architects, engineers, and land surveyors; persons working on their own property; and nursery persons, as specified. The Task Force extensively reviewed the exemption for unlicensed practice. The LATC obtained a legal opinion from DCA Legal Counsel which stated the provisions outlined in BPC 5641 were sufficiently clear. The Task Force members then recommended the LATC direct staff to monitor cases in which BPC 5641 was applied and draft interpretations of BPC 5641, as well as perform outreach related to the interpretations. The Task Force was concluded after fulfilling its charge. As of November 2014, staff had not needed to apply the provisions of BPC 5641 for any complaints received since the conclusion of the Task Force.

### **PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS**

The Board was last reviewed by the Senate Business, Professions and Economic Development Committee in 2011. During the previous sunset review, the Committee raised three issues. Below are actions which have been taken over the last 4 years to address a number of these. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under "Current Sunset Review Issues."

- From FY 06/07-08/09, there was an average of about 30 complaints filed per year. In FY 09/10, that number jumped to 86. It is not clear what accounts for the large increase in complaints received by the Committee.

*In FY 2009/10, the average number of complaints jumped to 86 from an average of 30 complaints filed in previous years. During that time, one anonymous individual filed a large batch of complaints that accounted for the increase. Since that anomaly, complaints have returned to the average of roughly 30 complaints per year.*

- California's pass rates for LARE have been consistently lower than the national average, sometimes significantly lower.

*Reasons for various rates include California's flexible eligibility standards, which do not require an accredited degree and only require one year of education. California's size and diversity may also play a role in examination scores. In addition, while California's LARE pass rate in the last reporting period (covering approximately 100 examinations) was lower than the national average by more than 10% only 13 times, it was also equal to or higher than*

*the national average on nearly as many occasions. LATC continues to monitor pass rates, eligibility standards, practice trends, national issues, etc. to determine that its examinations and standards are performing effectively.*

- Should the licensing and regulation of landscape architects be continued and be regulated by the current CAB membership through the Committee?

*SB 543 (Steinberg, Chapter 448, Statutes of 2011), extended the sunset date for the Committee until January 1, 2016.*

## **CURRENT SUNSET REVIEW ISSUES FOR THE LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE**

The following are unresolved issues pertaining to the LATC, or those which were not previously addressed by the Committees, and other areas of concern for the Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The LATC and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

### **ADMINISTRATIVE AND LICENSING ISSUES**

**ISSUE #1: TRAVEL RESTRICTIONS.** *Should the Committees encourage travel to professional conferences or meetings that directly affect licensure of California licensees?*

**Background:** Several boards have reported difficulty receiving approval on in-state and out-of-state travel. Like many other professional licensing boards, LATC relies upon a national examination, the LARE, which is developed, administered, and scored by CLARB. CLARB contacts licensees directly to select technical experts for a four-year term on their Exam Writing Committee. Currently, there are two California participants on CLARB's Exam Writing Committee. LATC is also a member of CLARB and enjoys voting rights pursuant to CLARB's bylaws. In recent years, LATC has worked closely with CLARB during its task analysis and test development to ensure a smooth transition to CLARB's new examination format. As such, the LATC's participation is critical to ensure California's interests are expressed and that we are given consideration in decisions that affect California stakeholders.

The Committee's out-of-state travel requests to attend the CLARB annual meetings, which are held at different locations such as Seattle, Dallas, and Chicago, were denied in 2010 through 2013. Travel was approved to attend the CLARB annual meeting in Washington D.C. in September 2014.

The Committee has had recent success in gaining approval for travel. While the current Administration has an understanding regarding the criticality of national issues, the number of individuals authorized to travel is often reduced by the DCA, Business, Consumer Services and Housing Agency, or the Governor's Office. As such, the LATC is not able to fully participate and effectively represent the needs of California. Travel requests have been cut even when trips are "funded" by our national associations and there is no cost to the State of California. The LATC asserts these national association meetings are "mission critical" and crucial to fulfill the respective statutory missions, and that Committee Members, who are leaders in the profession, would not make the

required sacrifices in their time, and subsequently, their income, to participate if such meetings were not mission-critical. Fostering change and influencing national standards and policy is a significant, strategic, and labor-intensive effort that requires a full complement of Committee members to effectively represent the interests of the State of California.

**Staff Recommendation:** *The LATC should inform the Committees of whether it has been able to participate fully at the national level, or whether it faces travel restrictions that prohibits it from attending meetings where its representation could significantly impact California's ability to ensure that national examinations or standards reflect California's needs and protect California licensees, candidates for licensure, and consumers.*

**ISSUE #2: PATHWAYS TO LICENSURE.** *Should the LATC consider ways to streamline its licensure process or make its licensure process more flexible to accommodate out of state applicants?*

**Background:** During this last reporting period, LATC has expanded its pathways to licensure allowing partial degrees, and architecture degrees to meet education requirements. Efficiencies in the licensure processes were improved by permitting candidates to take certain sections of the national exam upon graduation. On the horizon are changes the Board is considering for an “integrated path to licensure”. The Board is seeking to synthesize licensure components into a more efficient system, building a powerful pipeline into the profession. LATC notes that an adequate supply of landscape architects is crucial because in robust economies, firms report that they are simply unable to find enough landscape architects to hire. It is quite possible that a more integrated approach to licensing will produce more landscape architects.

In addition, the LATC has received license applications from candidates who are licensed in other states but do not meet specific California requirements, namely a degree in landscape architecture. The LATC is reviewing reciprocity requirements of other states to determine possible changes to California requirements to improve efficiencies. Initial research revealed varying minimum standards across states including education only, experience only, varying degree types, and contingency on acceptance of reciprocity from other states.

**Staff Recommendation:** *The LATC should continue to work closely with the Board to identify opportunities to initiate efficiencies in its licensure system, and consult with stakeholder to ensure that the path to licensure is efficient and effective.*

**ISSUE #3: BREEZE IMPLEMENTATION.** *The LATC was supposed to be part of BreEZe's Release Three, which has now been delayed until at least 2016.*

**Background:** The "BreEZe Project" was designed to provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. The updated BreEZe system was engineered to replace the existing outdated legacy systems and multiple “work around” systems with an integrated solution based on updated technology.

According to DCA, BreEZe is intended to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. In addition, BreEZe is web-enabled and designed to allow licensees to complete and submit applications, renewals, and the necessary fees through the internet when fully operational. The public also will be able to file

complaints, access complaint status, and check licensee information, when the program is fully operational.

According to the original project plan, BreEZe was to be implemented in three releases. The budget change proposal that initially funded BreEZe indicated the first release was scheduled for FY 2012–13, and the final release was projected to be complete in FY 2013–14.

In October 2013, after a one-year implementation delay, the first ten regulatory entities were transitioned to the BreEZe system. Release Two is scheduled to go live in March 2016, three years past the initial planned release date. As a result of significant cost and implementation concerns, among others, DCA reported in late 2014, that the current vendor contract is no longer in place, and those regulatory entities that were scheduled for Release Three will not transition to the BreEZe system. Currently, the technology upgrade, intended by BreEZe, is on hold as DCA, Caltech and DGS determine the appropriate next steps.

The LATC was scheduled for Release Three, and with the cancellation of the BreEZe contract, it is unclear when the LATC will undergo technology upgrades that aim to increase efficiencies for licensees and LATC staff. A recent audit report conducted by the California State Auditor, California Department of Consumer Affairs' BreEZe System, found that "the future implementation of BreEZe is uncertain at best and, as it relates to the regulatory entities originally included in the final release [Release Three], likely unfeasible." To date, the LATC has spent approximately \$18,749 on BreEZe expenditures to prepare for the BreEZe system transition. The auditor's report also noted that "Consumer Affairs is not responsible for funding the project costs; rather, the total costs of the project are funded by regulatory entities' special funds, and the amount each regulatory entity pays is based on the total number of licenses it processes in proportion to the total number of licenses that all regulatory entities process." It is unclear what amount the LATC will continue to pay for the current BreEZe technology project that it will not likely utilize.

***Staff Recommendation:*** *The LATC should inform the Committees of any difficulties it foresees as a result of having to remain on its legacy system, and whether any additional stop-gap technological measures are needed until BreEZe is implemented. The LATC should inform the Committees of how costs related to BreEZe will impact its fund condition.*

#### **ISSUE #4: PRO RATA. What services does the Board receive for its share of pro rata?**

**Background:** Through its various divisions, the DCA provides centralized administrative services to all boards and bureaus. Most of these services are funded through a pro rata calculation that is based on "position counts" and charged to each board or bureau for services provided by personnel, including budget, contract, legislative analysis, cashiering, training, legal, information technology, and complaint mediation. The DCA reports that it calculates the pro rata share based on position allocation, licensing and enforcement record counts, call center volume, complaints and correspondence, interagency agreement, and other distributions. In 2014, the DCA provided information to the Assembly Business, Professions and Consumer Protection Committee, in which the Director of the DCA reported that "the majority of [DCA's] costs are paid for by the programs based upon their specific usage of these services." The DCA does not break out the cost of their individual services (cashiering, facility management, call center volume, etc.). The Committee reports that it receives the following services from the DCA for its pro rata: accounting, budget, contracts, executive assistance, information technology, investigation, legal affairs, legislative and regulatory review, personnel, and



public affairs. While it appears the DCA provides assistance to the Bureau, it is unclear how the rates are charged and if any of those services could be handled by the Bureau instead of the DCA for a cost savings.

During the last four years, the Committee has spent an average of 21% of its budget on pro rata costs, and this amount has remained relatively steady.

***Staff Recommendation:*** *The LATC should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. In addition, the Committee should discuss whether it could achieve cost savings by providing some of these services in-house.*

### **ENFORCEMENT ISSUES**

***ISSUE #5: COLLECTION OF FINES.*** *The LATC notes that it is seeking ways to increase collection of fines, particularly in cases of unlicensed practice when it does not have the leverage of a license to incentivize payment.*

***Background:*** The LATC's performance in terms of case aging and case load represent significant improvement over the last five years. Nevertheless, the LATC seeks continuous improvement, and one area in particular is that of unlicensed practice. The LATC's citation program is an effective tool and the LATC believes it makes good use of that program. For the program to be more impactful, however, the monetary penalty must be "real." Many unlicensed individuals choose to ignore the citations and not pay the penalty, as they do not have a license that is in jeopardy. The LATC does not currently have an effective mechanism to take additional action against these individuals. The LATC does use the Intercept Program through the FTB, which captures funds from State tax refunds and Lottery proceeds.

The LATC believes that collection agencies could also play a valuable role in recovering funds from citation penalties. Currently, the LATC does not have authority to release Social Security Numbers (SSNs) to collection agencies. The LATC is also interested in exploring the possibility of requiring the satisfaction of citation penalties as a condition of receiving other State services, such as driver's license and vehicle registration. The LATC has also discovered that unlicensed individuals sometimes hold a license issued by another DCA board. The LATC is interested in collaborating with other related boards to develop recommendations for a program to ensure payment of that citation wherein an unpaid citation from one board could preclude renewing a license held from another board.

***Staff Recommendation:*** *While the LATC has only issued an average of 1.7 citations per year over the past three FYs, the LATC should continue to explore ways to ensure payment of fines. The LATC should look into other agencies authorized to release SSNs to collection agencies, and whether there are any privacy or security issues that may arise if such information was transmitted. The LATC should work with the Board and other licensing boards, such as the Contractors State Licensing Board, the Bureau of Real Estate, and the Board of Professional Engineers, Land Surveyors, and Geologists to determine the feasibility of sharing disciplinary information for purposes of leveraging other professional licenses as a way to achieve compliance; how such a system would operate; and what changes would be necessary.*

**CONTINUED REGULATION OF THE PROFESSION**  
**BY THE LATC**

**ISSUE #6: CONTINUED REGULATION BY THE LATC. *Should the licensing and regulation of landscape architects be continued and be regulated by the current LATC membership?***

**Background:** The health, safety and welfare of consumers are protected by the presence of a strong licensing and regulatory body with oversight over landscape architects.

The LATC should be continued with a 4-year extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

**Staff Recommendation:** *Recommend that the licensing and regulation of landscape architects continue to be regulated by the current members of the LATC in order to protect the interests of the public and be reviewed once again in four years.*