



REGULATORY AGENCY ACTION

date of January 1, 1990.

MAJOR PROJECTS:

Board Rulemaking. In June, the Board resubmitted modified versions of new regulatory sections 3486 and 3488, Chapter 34, Title 16 of the California Code of Regulations. The Office of Administrative Law had previously rejected these new provisions, which would set forth procedures for the issuance of citations and fines by the Board, and establish an informal conference procedure for resolving citations. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 71-72 for background information.)

LEGISLATION:

SB 1494 (Dills), which would recast and revise the statutes providing for the licensing and regulation of polygraph examiners under the Penal Code and transfer the power and duties of the Board to the Department of Justice, is pending in the Senate Appropriations Committee at this writing. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 72 for detailed background information on the ramifications of this bill.)

RECENT MEETINGS:

The Board has not met since October 28, 1988.

FUTURE MEETINGS:

To be announced.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Executive Officer: Darlene Stroup (916) 920-7466

The Board of Registration for Professional Engineers and Land Surveyors regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act and the Professional Land Surveyors' Act.

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

The Board consists of thirteen mem-

bers: seven public members, one licensed land surveyor, four registered practice act engineers and one title act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established seven standing committees dealing with land surveying and the various branches of engineering. These committees, each composed of three Board members, approve or deny applications for examinations and register applicants who pass the examinations. Their actions must have the approval of the entire Board, which is routinely forthcoming.

Professional engineers are now licensed through the three Practice Act categories of civil, electrical and mechanical engineering under section 6730 of the Business and Professions Code, and the Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering.

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

MAJOR PROJECTS:

Emergency Board Meeting. Responding to what it called a "breach in examination security," the Board determined that it was necessary to hold an emergency meeting under the provisions of Government Code section 11125.5(c). The meeting took place on April 1 in San Diego, and the Board voted to delay the scheduled April 15 administration of the professional land surveyor exam to August 12, coinciding with the structural engineer exam.

OAL Rejects Proposed Rules. On March 6, the Office of Administrative Law (OAL) rejected the Board's proposed amendments to sections 400, 403, 408, 410, 411, and 441, and the repeal of sections 413 and 414, Chapter 5, Title 16 of the California Code of Regulations (CCR). These changes were meant to be "clean-up" amendments to the Board's regulations (see CRLR Vol. 9, No. 1 (Winter 1989) p. 62 and Vol. 8, No. 4 (Fall 1988) pp. 71-72 for background information), but were rejected because they did not comply with the clarity standard, since OAL found they could not be easily understood by persons directly affected by them. OAL called

portions of the language undefined, vague, and ambiguous. OAL further said that the authority requirement was not satisfied because the Board cited to sections 6710, 8706, and 6785 of the Business and Professions Code, sections which do not grant the Board rulemaking authority. Finally, OAL based its rejection on what it called an incomplete record of the rulemaking hearing.

On April 6, OAL rejected the Board's proposed adoption of sections 470 and 471, Chapter 5, Title 16 of the CCR. The rules would have set forth time periods within which the Board must inform applicants for licenses that their applications are complete and accepted for filing or that the application is deficient and the specific information which is required; and a time period in which the Board must reach a decision on the application. The rules were meant to bring the Board into compliance with the Permit Reform Act of 1981 (Government Code sections 15374-15378). OAL based its rejection on what it viewed as noncompliance with the necessity and consistency standards of Government Code section 11349.1, saying that the rulemaking file did not contain "substantial evidence demonstrating the need for the particular time periods selected under the Permit Reform Act of 1981," and that the language the Board used to set forth the time in which it must reach a decision on an application was not consistent with what the statute requires.

Structural Engineer Rulemaking Delayed Again. At its March 10 meeting, the Board voted to renounce the language of proposed regulatory sections 426.12 and 427.30. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 62 and Vol. 8, No. 4 (Fall 1988) pp. 71-72 for detailed background information.) Section 426.12 would define the experience which shall be considered as "qualifying" toward the requirements necessary to use the title "structural engineer"; and section 427.30 would describe the types of professional references which applicants for the authority to use the title "structural engineer" must produce. The Board has decided to renounce the language of these sections as it was originally noticed for hearing in November 1988. The Board also plans to make grammatical changes to Section 426.10, and will renounce those changes as well.

LEGISLATION:

AB 439 (Lewis). Existing law requires that lot line adjustments between adjacent parcels be reflected in a deed or record of survey and be recorded. As



amended April 5, this bill would require the lot line adjustment to be reflected in a deed and recorded, as specified. This bill, which is now pending in the Assembly Committee on Local Government, would require a record of survey of the lot line adjustment to be filed if required by provisions of the Professional Land Surveyors' Act.

AB 459 (Frizzelle) would enable a Board licensee to renew his/her license any time after delinquency, without regard to length of delinquency, without a reexamination requirement. This is a two-year bill pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 1729 (Chandler) would increase the penalties for exam subversion, making the offense a misdemeanor and requiring the violator to reimburse costs incurred by the Board up to \$10,000. This bill, supported by PELS, is pending in the Assembly Committee on Ways and Means.

AB 1970 (Cortese) would, among other things, require that in a land improvement plan, tentative, parcel, and final maps must be prepared by a civil engineer. This bill is pending in the Assembly Committee on Ways and Means.

The following is a status update of legislation discussed in detail in CRLR Vol. 9, No. 2 (Spring 1989) at page 73:

SB 419 (Greene, L.), which would allow heads of state and local agencies to make decisions as to qualifications of engineering, land surveying or construction management firms, or private architects when contracting for their services, passed the Senate and is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 423 (Stirling) was amended on April 3. Existing law requires each city, county, and city and county to enact an ordinance requiring a preliminary soils report of every subdivision for which a tentative and final map is required. Existing law also requires that the report be prepared by a California-registered civil engineer. This bill would permit the report for a residential subdivision to be submitted to and reviewed by the city or county engineer, as specified. SB 423 has passed the Senate and is pending in the Assembly Local Government Committee.

SB 581 (Green), as amended on April 13, would delete the current requirement that certain lot line adjustments between adjacent parcels which are exempt from the regulations of the Subdivision Map Act be reflected in a record of survey. The bill would instead require that a

survey is performed for the adjustment, it be conducted in conformance with provisions of the Professional Land Surveyors' Act. Violation of these laws would be a misdemeanor. This bill would also require that parcel and final maps prepared and certified by or under the direction of a registered civil engineer or licensed land surveyor be in conformance with the Professional Land Surveyors' Act. SB 581 is still pending in the Senate Committee on Housing and Urban Affairs.

AB 517 (McClintock) would amend the Professional Engineers Act to include the grading of land within the definition of work to be performed only by persons registered as civil engineers. This bill has passed in the Assembly and is pending in the Senate Business and Professions Committee.

AB 709 (Bradley), which would amend sections 8761, 8764.5, and 8801 of the Business and Professions Code to require that all maps, plats, reports, descriptions or other documents issued by a licensed land surveyor or civil engineer must bear the seal or stamp of the licensee or registrant along with the renewal date of the license or registration, is still pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 1162 (Ferguson), as amended June 6, would require that parcel maps for realty subdivisions be prepared on the basis of a field survey performed under the Professional Land Surveyors' Act, but would permit the map, when authorized by local ordinances, to be compiled from filed or recorded data based on a field survey made within the preceding five years. This bill is pending in the Assembly Ways and Means Committee.

AB 1537 (Bradley). Existing law requires that in any civil action concerning a claim of professional negligence, the plaintiff's attorney is required to attempt to obtain consultation with at least one appropriate professional who is not a party to the action. The attorney is then required to file a certificate declaring that on the basis of that consultation, there is reasonable cause for the filing of the action, and if the consultation was not obtained, why it was not. The attorney is not required to reveal the name, address, or telephone number of the person consulted. This bill, which would have changed that nondisclosure rule to instead require that the certificate be signed by the professional and contain his/her name, address, and telephone number, was dropped by its author.

AB 1748 (Chandler). Under current

law, persons who are applying to become land surveyors and are registered as professional engineers, or have passed an engineer-in-training program, are exempted from taking the first part of the two-part examination. This bill, which is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection, would eliminate that exemption and require a civil engineer who passes the first part of the exam to have one year of responsible field training and one year of responsible office training before he/she could qualify to take the second division of the examination.

AB 1789 (Cortese) would give architects, engineers, and surveyors a design professionals' lien on real property for which a work of improvement is planned, and for which a governmental approval is obtained, in the amount of the contract fee earned. The lien would function much as a mechanics' lien operates under current law, and would be subordinate to encumbrances of construction lenders. This bill is now pending in the Assembly Judiciary Committee.

FUTURE MEETINGS:

September 29 in Sonoma County.

December 1 in San Francisco.

BOARD OF REGISTERED NURSING

Executive Officer: Catherine Puri (916) 322-3350

The Board of Registered Nursing (BRN) licenses qualified RNs, certifies qualified nurse midwifery applicants, establishes accreditation requirements for California nursing schools and reviews nursing school curricula. A major Board responsibility involves taking disciplinary action against licensed RNs.

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

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 56 people.

MAJOR PROJECTS:

Nurse Midwifery Legislation. After consulting legal counsel, BRN has decided to ask the Department of Consumer Affairs to find a sponsor for a bill concerning nurse midwifery candi-