

Notice of April 5-6, 2017 meeting of the Board of Architectural and Engineering Examiners.
Posted to the Board of Architectural & Engineering Examiners' website on March 27, 2017.



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS**

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Program Website: <http://www.tn.gov/commerce/section/architects-engineers>

AGENDA

**BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
NOTICE OF BOARD MEETING**

Davy Crockett Tower, Conference Room 1-B
500 James Robertson Parkway
Nashville, Tennessee 37243

Wednesday, April 5, 2017

12:00 P.M.

ENGINEER COMMITTEE MEETING

Members: Ricky Bursi, Robert Campbell, Stephen King, Philip Lim, Laura Reinbold, Kathryn Ware

CALL TO ORDER – Robert Campbell, Jr.

NEW BUSINESS

- Applications and Audits for Review, Discussion and Signature
- Proposed Changes to EAC/ABET Criteria (p. 5)

UNFINISHED BUSINESS

- Electronic Seals and Signatures Requirements
- Review of Criteria for Fulfillment of Humanities/Social Sciences (General Education) Deficiencies (p. 11)
- Energy Service Companies and Engineering Registration Laws

ADJOURNMENT

The listed order of items and times on the agenda are subject to change, as the Board reserves the right to move to the next agenda items due to cancelations or deferrals.

Board meetings will be conducted by permitting participation of the Board members by electronic or other means of communication if necessary. Any member participation by electronic means shall be audible to the public at the location specified above. The Department of Commerce and Insurance is committed to principles of equal access. If you need assistance with attending this meeting due to a disability please contact the Department's ADA Coordinator at (615) 741-0481.

3:00 P.M.

CONTINUING EDUCATION COMMITTEE MEETING

Members: Susan Ballard, Ricky Bursi, Susan Maynor, Blair Parker, Frank Wagster, Kathryn Ware

CALL TO ORDER – Frank Wagster, Chair

NEW BUSINESS

- Potential Continuing Education Rule Changes (p. 12)

ADJOURNMENT

4:00 P.M.

GRANTS TO HIGHER EDUCATION COMMITTEE MEETING

Members: Susan Ballard, Philip Lim, Susan Maynor, Blair Parker, Frank Wagster

CALL TO ORDER – Susan Ballard, Chair

NEW BUSINESS

- Review of Grant Guidelines (p. 20)

ADJOURNMENT

Davy Crockett Tower, Conference Room 1-A

500 James Robertson Parkway

Nashville, Tennessee 37243

Thursday, April 6, 2017

8:00 A.M.

LAW AND RULES/POLICIES COMMITTEE MEETING

Members: Susan Ballard, Robert Campbell, Susan Maynor, Blair Parker, Laura Reinbold, Rick Thompson, Brian Tibbs

CALL TO ORDER – Rick Thompson, Chair

UNFINISHED BUSINESS

- Proposed Rule Changes (p. 30)

ADJOURNMENT

8:45 A.M.

NOMINATIONS COMMITTEE MEETING

Members: Susan Ballard, Philip Lim, Blair Parker, Rick Thompson, Kathryn Ware

CALL TO ORDER – Philip Lim, Chair

NEW BUSINESS

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- Discuss Nominations for Board Officers

ADJOURNMENT

9:00 A.M.

BOARD MEETING

CALL TO ORDER – Susan Ballard, Chair

- Roll Call
- Acknowledge Guests
- Announcements
- Review Agenda for Changes and/or Additions

CONSENT AGENDA – John Cothron, Executive Director

- Minutes from February 2017 Board Meeting (p. 42)
- Staff Complaint Report (p. 57)

PUBLIC COMMENT

PROFESSIONAL SOCIETY REPORTS

LEGAL CASE REPORT (p. 58)

DIRECTOR'S REPORT – John Cothron

- Licensing Data (p. 64)
- Complaint Data (p. 65)

LEGISLATIVE UPDATE (p. 66) – John Cothron

ENGINEER COMMITTEE REPORT – Robert Campbell, Jr.

CONTINUING EDUCATION COMMITTEE REPORT – Frank Wagster

GRANTS COMMITTEE REPORT – Susan Ballard

LAW AND RULES/POLICIES COMMITTEE REPORT – Rick Thompson

NOMINATIONS COMMITTEE REPORT – Philip Lim

UNFINISHED BUSINESS

- Action Items (p. 77) – John Cothron

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- Qualifications-Based Selection FAQs (p. 78)

NEW BUSINESS

- Transcripts for Transfer Credit
- 2018 Legislative Proposals (p. 77) – John Cothron
- Report on NCARB Regional Summit (p. 86) – John Cothron
- Authorization of Travel and Speakers

ADJOURNMENT

The listed order of items and times on the agenda are subject to change, as the Board reserves the right to move to the next agenda items due to cancelations or deferrals.

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ENGINEERING ACCREDITATION COMMISSION

Comparison of Proposal Submitted in 2015 to Proposal Submitted in 2016

Submitted in 2015	Proposed for First Reading in 2016
INTRODUCTION	INTRODUCTION
<p>These criteria are intended to provide a framework of education that prepares graduates to enter the professional practice of engineering who are</p> <ul style="list-style-type: none"> (i) able to participate in diverse multicultural workplaces; (ii) knowledgeable in topics relevant to their discipline, such as usability, constructability, manufacturability and sustainability; and (iii) cognizant of the global dimensions, risks, uncertainties, and other implications of their engineering solutions. <p>Further, these criteria are intended to assure quality to foster the systematic pursuit of improvement in the quality of engineering education that satisfies the needs of constituencies in a dynamic and competitive environment. It is the responsibility of the institution seeking accreditation of an engineering program to demonstrate clearly that the program meets the following criteria.</p>	<p>These criteria apply to all accredited engineering programs. Furthermore, these criteria are intended to foster the systematic pursuit of improvement in the quality of engineering education that satisfies the needs of its constituencies in a dynamic and competitive environment. It is the responsibility of the institution seeking accreditation of an engineering program to demonstrate clearly that the program meets the following criteria.</p>
<p>The Engineering Accreditation Commission of ABET recognizes that its constituents may consider certain terms to have certain meanings; however, it is necessary for the Engineering Accreditation Commission to have consistent terminology. Thus, the Engineering Accreditation Commission will use the following definitions:</p>	<p>The Engineering Accreditation Commission of ABET recognizes that its constituents may consider certain terms to have certain meanings; however, it is necessary for the Engineering Accreditation Commission to have consistent terminology. Thus, the Engineering Accreditation Commission will use the following definitions in applying the criteria:</p>

Submitted in 2015	Proposed for First Reading in 2016
<p>Basic Science – Basic sciences consist of chemistry and physics, and other biological, chemical, and physical sciences, including astronomy, biology, climatology, ecology, geology, meteorology, and oceanography.</p>	<p>Basic Science – Basic sciences are disciplines focused on knowledge or understanding of the fundamental aspects of natural phenomena. Basic sciences consist of chemistry and physics and other natural sciences including life, earth, and space sciences.</p>
<p>College-level Mathematics – College-level mathematics consists of mathematics above pre-calculus level.</p>	<p>College-Level Mathematics – College-level mathematics consists of mathematics that requires a degree of mathematical sophistication at least equivalent to that of introductory calculus. For illustrative purposes, some examples of college-level mathematics include calculus, differential equations, probability, statistics, linear algebra, and discrete mathematics.</p>
<p>Engineering Science – Engineering sciences are based on mathematics and basic sciences but carry knowledge further toward creative application needed to solve engineering problems.</p>	<p>Engineering Science – Engineering sciences are based on mathematics and basic sciences but carry knowledge further toward creative application needed to solve engineering problems. These studies provide a bridge between mathematics and basic sciences on the one hand and engineering practice on the other.</p>
<p>Engineering Design – Engineering design is the process of devising a system, component, or process to meet desired needs, specifications, codes, and standards within constraints such as health and safety, cost, ethics, policy, sustainability, constructability, and manufacturability. It is an iterative, creative, decision-making process in which the basic sciences, mathematics, and the engineering sciences are applied to convert resources optimally into solutions.</p>	<p>Engineering Design – Engineering design is the process of devising a system, component, or process to meet desired needs and specifications within constraints. It is an iterative, creative, decision-making process in which the basic sciences, mathematics, and engineering sciences are applied to convert resources into solutions. The process involves identifying opportunities, performing analysis and synthesis, generating multiple solutions, evaluating those solutions against requirements, considering risks, and making trade-offs to identify a high quality solution under the given circumstances. For illustrative purposes only, examples of possible constraints include accessibility, aesthetics, constructability, cost, ergonomics, functionality, interoperability, legal considerations, maintainability, manufacturability, policy, regulations, schedule, sustainability, or usability.</p>
<p>Teams – A team consists of more than one person working toward a common goal and may include individuals of diverse backgrounds, skills, and perspectives.</p>	<p>Team – A team consists of more than one person working toward a common goal and should include individuals of diverse backgrounds, skills, or perspectives consistent</p>

	with ABET's policies and positions on diversity and inclusion.
One Academic Year – One academic year is the lesser of 32 semester credits (or equivalent) or one-fourth of the total credits required for graduation with a baccalaureate degree.	<i>[The definition of Academic Year was deleted]</i>

Submitted in 2015	Proposed for First Reading in 2016
CRITERION 3. STUDENT OUTCOMES	GENERAL CRITERION 3: STUDENT OUTCOMES
The program must have documented student outcomes. Attainment of these outcomes prepares graduates to enter the professional practice of engineering. Student outcomes are outcomes (1) through (7) plus any additional outcomes that may be articulated by the program.	The program must have documented student outcomes that support the program educational objectives. Attainment of these outcomes prepares graduates to enter the professional practice of engineering. Student outcomes are outcomes (1) through (7), plus any additional outcomes that may be articulated by the program.
1. An ability to identify, formulate, and solve engineering problems by applying principles of engineering, science, and mathematics.	(1) An ability to identify, formulate, and solve complex engineering problems by applying principles of engineering, science, and mathematics.
2. An ability to apply both analysis and synthesis in the engineering design process, resulting in designs that meet desired needs.	(2) An ability to apply the engineering design process to produce solutions that meet specified needs with consideration for public health and safety, and global, cultural, social, environmental, economic, and other factors as appropriate to the discipline.
3. An ability to develop and conduct appropriate experimentation, analyze and interpret data, and use engineering judgment to draw conclusions.	(3) An ability to develop and conduct appropriate experimentation, analyze and interpret data, and use engineering judgment to draw conclusions.
4. An ability to communicate effectively with a range of audiences.	(4) An ability to communicate effectively with a range of audiences.
5. An ability to recognize ethical and professional responsibilities in engineering situations and make informed judgments, which must consider the impact of engineering solutions in global, economic, environmental, and societal contexts.	(5) An ability to recognize ethical and professional responsibilities in engineering situations and make informed judgments, which must consider the impact of engineering solutions in global, economic, environmental, and societal contexts.
6. An ability to recognize the ongoing need for additional knowledge and locate, evaluate, integrate, and apply this knowledge appropriately.	(6) An ability to recognize the ongoing need to acquire new knowledge, to choose appropriate learning strategies, and to apply this knowledge.
7. An ability to function effectively on teams that establish goals, plan tasks, meet deadlines, and analyze risk and uncertainty.	(7) An ability to function effectively as a member or leader of a team that establishes goals, plans tasks, meets deadlines, and creates a collaborative and inclusive environment.

Submitted in 2015	Proposed for First Reading in 2016
CRITERION 5. CURRICULUM	GENERAL CRITERION 5: CURRICULUM
The curriculum requirements specify subject areas appropriate to engineering but do not prescribe specific courses. The curriculum must support attainment of the student outcomes and must include:	The curriculum requirements specify subject areas appropriate to engineering but do not prescribe specific courses. The program curriculum must provide adequate content for each area, consistent with the student outcomes and program educational objectives, to ensure that students are prepared to enter the practice of engineering. The curriculum must include:
(a) one academic year of a combination of college-level mathematics and basic sciences (some with experimental experience) appropriate to the program.	(a) a minimum of 30 semester credit hours (or equivalent) of a combination of college-level mathematics and basic sciences with experimental experience appropriate to the program.
(b) one and one-half academic years of engineering topics, consisting of engineering sciences and engineering design appropriate to the program and utilizing modern engineering tools.	(b) a minimum of 45 semester credit hours (or equivalent) of engineering topics appropriate to the program, consisting of engineering sciences and engineering design, and utilizing modern engineering tools.
(c) a broad education component that includes humanities and social sciences, complements the technical content of the curriculum, and is consistent with the program educational objectives.	(c) a broad education component that complements the technical content of the curriculum and is consistent with the program educational objectives.
Students must be prepared to enter the professional practice of engineering through a curriculum culminating in a major design experience based on the knowledge and skills acquired in earlier course work and incorporating appropriate engineering standards and multiple constraints.	(d) a culminating major engineering design experience based on the knowledge and skills acquired in earlier course work that incorporates appropriate engineering standards and multiple constraints.

From: [John W. Smith](#)
To: [John Cothron](#)
Subject: Re: Proposed Changes to EAC/ABET Criteria
Date: Thursday, January 12, 2017 8:42:21 PM
Attachments: [image003.png](#)
[datauri-file.png](#)

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John

I think we who are practicing, licensed engineers need to have concern with the EAC draft, but not so much with the reduction in hours in two curriculum elements. The reduction in hours in the Basic Sciences/Mathematics area (2) and the Engineering Science/Design area (3) reflect the movement of engineering academic programs to the 120 hour requirement for a four year degree. While not specifically stated, this is obvious from the statements on page four of the proposed revisions where the curriculum elements are proposed to be defined by number of hours rather than fractions of an academic year, i.e., 1 academic year of mathematics/basic sciences, one and one-half academic years of engineering topics.

Am I concerned that 2 hours will disappear from basic sciences and 3 from engineering sciences? Not really. The accumulation of college credit hours often overshadows what the EAC has identified on the first page (It is the responsibility of the institution seeking accreditation of an engineering program to demonstrate clearly that the program meets the following criteria). Beginning in 2000, the accreditation of new programs and re-accreditation of existing programs requires the program director to defend how the course work allows the graduate to meet the accreditation criteria which is not defined by the number of hours in a given area.

The EAC proposal very subtly moves from "following definitions." in the 2015 version to "following definitions in applying the criteria" in the proposed version. Under the proposed version, the program director's objective is to define how the academic program (regardless of the number of hours) meets the definitions on page 2 of the proposed EAC criteria and achieves the criterion on page 3.

With this "outcomes" driven curriculum assessment, I suspect we will see four year engineering degree programs below the 120 hour level. Some programs are already looking at 96 hour requirements.

So, to repeat my initial statement, yes the reduction in hours concerns me but not as much as placing the responsibility for assessing the student outcomes identified on page three by non-registrants, most who have never practiced engineering and many who hold academic credentials from foreign institutions. I fear that we have created a system where accreditation/re-accreditation success will be a function of the writing skills of the program director or his/her designated person. There are already report preparation services available to prepare the accreditation/re-accreditation

documentation.

I have digressed and rambled. If you need additional input, give me a call.



John W. Smith, Ph.D., PE
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From: John Cothron <John.Cothron@tn.gov>
To: "John W. Smith (smithjws@bellsouth.net)" <smithjws@bellsouth.net>
Sent: Friday, January 6, 2017 10:23 AM
Subject: Proposed Changes to EAC/ABET Criteria

Dear Dr. Smith,

Happy New Year! I hope you are doing well. As you may be aware, ABET is considering several changes to the EAC criteria, and they are seeking public comment. The web link to the proposed EAC criteria changes is at <http://www.abet.org/abet-news/updates/>. Robert Campbell asked me to contact you to see if you had any concerns about the proposed changes. The main difference I saw between the proposed revisions and the NCEES Engineering Education Standard is in the number of semester credit hours required for mathematics/basic sciences (a minimum of 30 hours in the proposed revisions vs. 32 hours in the NCEES Standard) and engineering science/engineering design (a minimum of 45 hours in the proposed revisions vs. 48 hours in the NCEES Standard). This appears to be a slight reduction in the number of hours required from what was originally proposed in 2015, and no rationale is provided for this change. Do you have any concerns about the revisions?



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**Criteria for Fulfillment of the ABET Humanities/Social Sciences
(General Education) Requirement
(in lieu of completing additional college coursework)**

Progressive engineering experience in the U.S., if applicant has practiced over five (5) years in the U.S. = **0.5 semester hour per year**

Involvement in one (1) civic or professional organization in the U.S. = **0.5 semester hour per year**

Passing tests for U.S. citizenship = **1 semester hour**

Continuing education in ethics/humanities/social sciences (earned within 2 years of application date) = **1 semester hour per 15 PDH's**

Advanced degree from a U.S. institution = **9 semester hours**

Publishing a technical paper in a technical journal, newsletter or similar publication = 5 semester hours per paper (limit 2 papers)

Presentation of a technical topic at a society, convention or similar event = 2 semester hours per presentation (limit 2 presentations)

Teaching college level courses at either a two-year or four-year institution = 1 credit hour per hour of credit for the class

CLEP credits will be accepted to fulfill up to 12 semester hours of humanities/social sciences deficiencies only if they are offered by a regionally accredited college or university and appear on the official college or university transcript.

Adopted 12/10/08

Revised and adopted 4/22/09

Revised and adopted 12/9/09

Revised and adopted 10/14/15

Revised and adopted _____

**RULES
OF
THE DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE STATE BOARD OF
ARCHITECTURAL AND ENGINEERING EXAMINERS**

**CHAPTER 0120-05
CONTINUING EDUCATION**

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0120-05-.01 PURPOSE. The Tennessee State Board of Architectural and Engineering Examiners is authorized by Tenn. Code Ann. § 62-2-203(d) (Acts 1995, Public Chapter 129), to establish continuing education requirements and standards for architects, engineers, landscape architects and registered interior designers in order to safeguard life, health and property and to promote the public welfare. The purposes of this chapter are to prescribe the basic continuing education requirements for present and future architects, engineers, landscape architects and registered interior designers and to establish standards by which continuing education programs will be evaluated for the awarding of credit.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997.

0120-05-.02 DEFINITIONS.

- (1) "ACTIVE" means a registered architect, engineer, landscape architect or registered interior designer who has complied with the continuing education requirements described herein.
- (2) "BOARD" means the Tennessee State Board of Architectural and Engineering Examiners.
- (3) "INACTIVE" means a registered architect, engineer, landscape architect or registered interior designer who has obtained inactive status from the Board and is not required to comply with the continuing education requirements prescribed herein. An inactive registrant may not engage in the practice of architecture, engineering, landscape architecture or use the title "registered interior designer" in the State of Tennessee.
- (4) "PROFESSIONAL DEVELOPMENT HOUR (PDH)" means a contact (clock) hour consisting of not less than fifty (50) minutes of instruction or presentation acceptable to the Board. Registrants will not receive credit for activities less than one (1) PDH in duration.
- (5) "REGISTRANT" means a person licensed by the Board as an architect, engineer, landscape architect or registered interior designer.
- (6) "SPONSOR" means an individual, organization, association, institution or other entity which provides an educational activity for the purpose of fulfilling the continuing education requirements of these rules.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed September 11, 2009; effective December 10, 2009.

0120-05-.03 CONTINUING EDUCATION REVIEW.

- (1) The Board may review and may approve sponsors and programs as being relevant to the practice of the represented profession. The Board shall establish a format for documentation needed to comply with these rules. The Board shall also adopt guidelines for auditing continuing education credits claimed. The Chairman of the Board shall, for each represented profession, appoint one (1) member of the Board who is a member of the represented profession to serve as the chairman of any committee appointed to review continuing education.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997.

0120-05-.04 BASIC REQUIREMENTS.

- (1) A registrant seeking biennial renewal for the first time after initial registration shall, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained twelve (12) PDH's the two (2) years immediately following initial registration and immediately preceding application for renewal. At least seven (7) of the PDH's claimed shall address health, safety and welfare issues and technical competency.
- (2) A registrant seeking biennial renewal for each two (2)-year period thereafter shall, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained twenty-four (24) PDH's the two (2) years immediately preceding application for renewal (carryover hours, not exceeding twelve (12) hours, from the preceding renewal period may be included). At least thirteen (13) of the PDH's claimed shall address health, safety and welfare issues and technical competency.
- (3) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for initial registration. However, at the time of first registration renewal, the registrant must demonstrate completion of the required continuing education.
- (4) Individuals reapplying for registration shall, as a prerequisite to registration, submit evidence satisfactory to the Board of having obtained twenty-four (24) PDH's (thirteen (13) of which shall address health, safety and welfare issues and technical competency) during the twenty-four (24) months immediately preceding reapplication.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed May 20, 2004; effective August 3, 2004. Repeal and new rule filed March 14, 2005; effective May 28, 2005.

0120-05-.05 CONVERSION TABLE.

- (1) Conversions from other units of continuing education to PDH's is as follows:
 - (a) One (1) university semester hour of credit.....15 PDH
 - (b) One (1) university quarter hour of credit.....10 PDH
 - (c) One (1) Continuing Education Unit10 PDH
 - (d) One (1) hour acceptable professional development education.....1 PDH

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997.

0120-05-.06 TYPES OF ACCEPTABLE CONTINUING EDUCATION.

- (1) The Board will grant credit for only such continuing education activities that satisfy the following criteria:
 - (a) There is clear purpose and objective for each activity which will maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.
 - (b) The content of each presentation is well-organized and presented in a sequential manner.
 - (c) There is evidence of pre-planning.
 - (d) The presentation will be made by persons who are well-qualified by education or experience.

- (2) Continuing education activities for which credit may be given by the Board include, but are not limited to the following:
 - (a) Successful completion or monitoring of college or university sponsored courses;
 - (b) Successful completion of courses which are awarded continuing education units (CEU's);
 - (c) Attendance at structured seminars, tutorials, short courses, correspondence courses, televised courses, Internet courses, or videotaped courses;
 - (d) Attendance at in-house educational programs sponsored by corporations or other organizations;
 - (e) Teaching or instructing as described in (a) through (d) above, unless teaching or instructing is the registrant's regular employment;
 - (f) Authoring published papers, articles, books, or accepted licensing examination items;
 - (g) Making presentations at technical meetings;
 - (h) Attendance at program presentations at related technical or professional meetings where program content is comprised of at least one (1) PDH;
 - (i) Attendance at Board meetings and professional society legislative events, and active participation in a technical/professional society or organization, or a technical or professional public board, as an officer or committee member;
 - (j) Active participation in educational outreach activities involving K-12 or higher education students;
 - (k) Patents granted; and
 - (l) All such activities as described in (a) through (k) above must be relevant to the practice of architecture, engineering, landscape architecture or interior design as determined by the Board and may include technical, ethical or managerial content.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed May 20, 2004; effective August 3, 2004. However; Stay of effective date to subparagraph (c) of paragraph (2) filed by the House and Senate Government Operations Committee of the Tennessee General Assembly on July 30, 2004; new effective date October 2, 2004. Amendment filed September 11, 2009; effective December 10, 2009. Amendment filed March 9, 2011; effective June 7, 2011. Amendment filed December 11, 2012; effective March 11, 2013. Amendments filed October 28, 2016; effective January 26, 2017.

0120-05-.07 CREDITS.

- (1) Professional Development Hours of credit for qualifying courses successfully completed which offer semester hour, quarter hour, or CEU credit are as specified above. All other activities will be credited one (1) PDH for each contact hour with the following exceptions:
 - (a) Monitoring of university or college courses will be credited at one-third (1/3) the above-stated conversion table.
 - (b) Teaching or instructing qualifying courses or seminars will be credited at twice the PDH's earned by a participating student and may be claimed for credit only once.
 - (c) Authorship of papers, articles, or books cannot be claimed until actually published. A maximum of ten (10) PDH's per biennium may be claimed for each published peer-reviewed paper, article, or book. A maximum of five (5) PDH's per biennium may be claimed for each published paper, article, or book that is not peer-reviewed.
 - (d) Correspondence course PDH's may be considered acceptable to the Board, but the registrant shall submit, upon request, supporting documentation to demonstrate high quality course content.
 - (e) A maximum of eight (8) PDH's per biennium may be claimed for attendance at Board meetings and professional society legislative events, and active participation in technical/professional societies or organizations, or technical or professional public boards, as an officer or committee member.
 - (f) A maximum of four (4) PDH's per biennium may be claimed for active participation in educational outreach activities involving K-12 or higher education students.
 - (g) A maximum of ten (10) PDH's per biennium may be claimed for each patent.
 - (h) A maximum of five (5) PDH's per biennium may be claimed for writing accepted licensing examination items.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed September 11, 2009; effective December 10, 2009. Amendment filed March 9, 2011; effective June 7, 2011. Amendment filed December 11, 2012; effective March 11, 2013. Amendments filed October 28, 2016; effective January 26, 2017.

0120-05-.08 EXEMPTIONS.

- (1) A registrant may be exempt from continuing education requirements for any of the following reasons:
 - (a) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for initial registration. However, at the time of first registration renewal, the registrant must demonstrate completion of the required continuing education.

- (b) A non-career military registrant serving on active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the PDH required during that year.
- (c) A registrant employed as an architect, engineer, landscape architect or registered interior designer and assigned to duty outside the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the PDH required during that year.
- (d) A registrant who lists the registrant's occupation as "retired" or "inactive" on the Board-approved renewal form and who further certifies that they are no longer practicing shall be exempt from the PDH required. In the event such a person elects to return to active practice, PDH must be earned for each year exempt, not to exceed the annual requirement for two (2) years before the person returns to active practice. Inactive or retired registrants returning to active practice must report PDH earned within no more than two (2) years of the request to reactivate.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed May 20, 2004; effective August 3, 2004. Amendment filed September 11, 2009; effective December 10, 2009. Amendment filed September 15, 2015; effective December 14, 2015.

0120-05-.09 CERTIFICATION.

- (1) A registrant seeking renewal shall complete the certification on the renewal form and indicate the number of PDH's claimed for the renewal period. If applicable, the registrant shall also indicate the number of carryover PDH's claimed for the renewal period. Upon completion of the certification, the registrant shall complete the renewal form and submit the appropriate fee.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997.

0120-05-.10 RECORDS.

- (1) Each registrant is responsible for maintaining records which may be used to support credits claimed.
- (2) Required records include but are not limited to the following:
 - (a) A log showing the type(s) of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, description of the activity and PDH credit(s) earned; and
 - (b) A transcript or completion certificate or at least two (2) of the following types of documentation: attendance verification records in the form of signed attendance receipts, paid receipts, a copy of a listing of participants signed by a person in responsible charge, or other documents supporting evidence of attendance.
- (3) Records must be maintained for a period of four (4) years, and copies must be furnished to the Board for audit verification purposes within thirty (30) days of the Board's request.
- (4) Any registrant who fails to comply with the requirements of this rule may be deemed by the Board to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

Authority: T.C.A. §§ 62-2-203(c) and (d) and 62-2-308. **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed July 19, 2002; effective October 2, 2002. Amendment filed May 20, 2004; effective August 3, 2004. Amendment filed March 9, 2011; effective June 7, 2011.

0120-05-11 DISALLOWANCE.

- (1) If the Board disallows claimed PDH credits, the registrant shall have ninety (90) days after notification to either substantiate the original claim or earn other credit to meet the minimum requirements.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendments filed October 28, 2016; effective January 26, 2017.

0120-05-12 NONCOMPLIANCE.

- (1) Unless a request for inactive or retired status is made, any registrant failing to furnish the required certification during the renewal period, properly completed and signed, shall not be granted renewal of registration by the Board.
- (2) Certificates of registration shall be subject to late renewal for six (6) months following their expiration date by payment of the renewal fee, plus a late penalty as set by the Board, along with a properly completed and signed renewal form indicating that all continuing education requirements for the renewal period have been completed. The applicant for late renewal of certification may not offer to engage in the practice of or engage in the practice of architecture, engineering or landscape architecture, or use the title "registered interior designer," until all late renewal requirements have been met.
- (3) Any person wishing to renew a certificate later than six (6) months after its expiration shall reapply for registration.

Authority: T.C.A. §§ 62-2-203(d), 62-2-307, and 63-2-308(a)(1)(E). **Administrative History:** Original rule filed April 25, 1997; effective July 9, 1997. Amendment filed July 19, 2002; effective October 2, 2002.

0120-05-13 RECIPROCITY.

- (1) If a registrant resides in or has principal place of business in a state or territory of the United States, or another country, that has established mandatory continuing education requirements for architects, engineers, landscape architects or interior designers, and that registrant has met the continuing education requirements of the registrant's home jurisdiction and is in good standing in that jurisdiction, then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in the registrant's home jurisdiction must be provided at the Board's request. If the registrant is exempt from the continuing education requirements in the registrant's home jurisdiction, the registrant must meet the requirements of Tennessee unless the registrant qualifies for an exemption in Tennessee.
- (2) This rule shall apply only to the acceptance of professional development hours for continuing education and shall not be construed to apply to the registration by comity of architect, engineer, landscape architect or interior designer applicants from another state, territory of the United States or country.

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed February 26, 1999; effective May 12, 1999. Amendment filed March 9, 2011; effective June 7, 2011. Amendment filed September 15, 2015; effective December 14, 2015.

0120-05-.14 ALTERNATIVE CONTINUING PROFESSIONAL DEVELOPMENT OPTION FOR ARCHITECTS AND REGISTERED INTERIOR DESIGNERS.

- (1) As an alternative to the requirements of Rule 0120-05-.04 Basic Requirements, a registered architect or registered interior designer may meet the continuing education requirement for renewal by obtaining twelve (12) Continuing Education Hours (CEH) per calendar year. All twelve (12) Continuing Education Hours must be completed in Health, Safety, and Welfare subjects acquired in structured educational activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours may not be credited to a future calendar year.
- (2) For the purposes of this rule, CEH means one continuous instructional hour (no less than 50 minutes of contact) spent in structured educational activities intended to increase or update the architect's or registered interior designer's knowledge and competence in Health, Safety, and Welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's or registered interior designer's time for Continuing Education Hour purposes irrespective of actual time spent on the activity. Registrants will not receive credit for activities less than one (1) CEH in duration.
- (3) For purposes of this rule, a structured educational activity is one (1) in which at least seventy-five percent (75%) of an activity's content and instructional time must be devoted to Health, Safety, and Welfare subjects related to the practice of architecture or interior design, including courses of study or other activities under the areas identified as Health, Safety and Welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.
- (4) For purposes of this rule, health, safety, and welfare subjects are technical and professional subjects that the Board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

Building Systems: Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection

Construction Contract Administration: Contracts, Bidding, Contract Negotiations

Construction Documents: Drawings, Specifications, Delivery Methods

Design: Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures

Environmental: Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation

Legal: Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to Protect Owners and Public

Materials and Methods: Construction Systems, Products, Finishes, Furnishings, Equipment

Pre-Design: Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying

Preservation: Historic, Reuse, Adaptation

Authority: T.C.A. § 62-2-203(d). **Administrative History:** Original rule filed November 11, 2014; effective February 15, 2015. A stay of the effective date was filed January 27, 2015; new effective date May 1, 2015.

GUIDELINES FOR ADMINISTERING BLOCK GRANTS TO
TENNESSEE INSTITUTIONS OF HIGHER EDUCATION
WITH ACCREDITED ARCHITECTURE, ENGINEERING, LANDSCAPE
ARCHITECTURE AND INTERIOR DESIGN PROGRAMS

Solicitation of Proposals

Each eligible institution of higher education shall be contacted by the Board's Executive Director after July 1st each year grants are available for distribution. A portion of the grants appropriation shall be designated by the Board to be used for computers to be utilized by students, laboratory or instructional equipment, library resources, or to pay intern development program fees or examination fees for students. These funds may not be used toward staff salaries, administrative costs, etc. Equipment purchased by the university with grant funds must remain the property of the university. In addition to the grant funds set aside for the purposes described above, the Board shall designate a portion of the funds to be used for special projects, as further described below.

Eligible Programs

- EAC/ABET Programs—

Board of Regents System—University of Memphis, Tennessee State University, Tennessee Technological University

University of Tennessee System—University of Tennessee at Knoxville, University of Tennessee at Chattanooga, University of Tennessee at Martin

Private Institutions—Christian Brothers University, Lipscomb University, Union University, Vanderbilt University

- NAAB Programs—

Board of Regents System—University of Memphis

University of Tennessee System—University of Tennessee at Knoxville

Private Institutions—none

- CIDA (formerly FIDER) Programs—

Board of Regents System—University of Memphis, Middle Tennessee State University

University of Tennessee System—University of Tennessee at Knoxville, University of Tennessee at Chattanooga

Private Institutions—O’More College of Design, Watkins College of Art, Design & Film

- LAAB Programs—

Board of Regents System—none

University of Tennessee System—University of Tennessee at Knoxville

Private Institutions—none

Architecture, engineering, landscape architecture, and interior design programs at colleges and universities that are within two (2) academic years of receiving accreditation are also eligible for grant funds.

Submission of Proposals: Equipment, Library Resources, and Fees

Eligible programs desiring to seek a grant from the Board shall submit a written request by a deadline determined by the Board to the attention of the Board’s Executive Director. Programs that do not submit requests by the established deadline shall be excluded from the grant distribution. Requests are to include the following information:

- Name of Institution and College/School of Architecture, Engineering, Landscape Architecture or Interior Design seeking grant.
- Name of Dean or his/her Designee who shall be responsible for overseeing the administration of the grant.
- Mission Statement, Goals, and Objectives of the Schools of Architecture, Engineering, Landscape Architecture and Interior Design seeking grants.
- General profile of each accredited program and average number of students participating in program.
- Name of account into which grant funds shall be deposited.
- Number of students for whom the school proposes to pay intern development program fees or examination fees, if applicable.
- Current level of spending for laboratory and computer equipment.
- Specific computer or laboratory needs, ranked from highest to lowest priority, designated by each accredited program, to include the following information:
 - Description of the equipment to be purchased.
 - Cost estimate for each piece of equipment.
 - Justification statement (including age of current equipment and any supporting documentation, if available, backing up specific needs).
 - Assurance that equipment shall be purchased utilizing the institution’s purchasing guidelines and identified through the institution’s inventory control procedures.

Submission of Proposals: Special Projects

The intent of the special grant funding program is for students of architecture, engineering, landscape architecture and interior design to collaborate on a special project. The University of Memphis Department of Architecture and the UT Knoxville College of Architecture and Design have agreed to collaborate with other institutions that do not have an architecture or landscape architecture program to allow the other engineering and interior design programs to create teams for this grant.

Eligible programs desiring to seek a special projects grant from the Board shall submit a written request by a deadline determined by the Board to the attention of the Board's Executive Director. Programs that do not submit requests by the established deadline shall be excluded from the grant distribution. Project submittals are required to have a minimum of three disciplines on each team in any combination of architecture, engineering, landscape architecture and interior design. Applicants must explain how the percentage of each discipline shall participate in the project. For contractual purposes, one institution must administer the project.

All project submittals shall be presented anonymously with a code to mark each submitted page for judging. All submittals shall be sent to the Board's Executive Director for tagging of each code number. The application shall have all necessary identifying information which shall be secured by the Board's Executive Director. The Grants Committee shall not see the application page—only the coded submittal information. The Executive Director shall redact any identifying project information prior to review by the Grants Committee.

The amount of grant funds available for special projects and the number of recipients shall be determined annually by the Board. For fiscal year 2017, the grant shall be available for two recipients in the amount of \$20,000.00 each. Teams can be formed from multiple colleges with a common program goal.

Suggested program topics include but are not limited to:

1. Research and Development
2. Community Service Need
3. Energy Conservation / Zero Carbon Output / Sustainability
4. Historic Preservation
5. Low Income/Human Resources/Poverty
6. Educational Needs of the Community
7. Recreational Needs in the Community
8. Other Projects Fulfilling a Need in a Community
9. Health, Safety and Welfare of the Public

The intent is for the grant funding to be used on a project within the State of Tennessee. Special project funds may not be used to pay intern development program fees or examination fees for students.

The project time frame is 18 months from receipt of funds. The award winners shall make a presentation to the Board at the end of the project. Project updates shall be submitted to the Board's Executive Director at least one (1) week prior to each regularly scheduled Board meeting during the duration of the project.

A point system for judging shall include the following criteria:

- Collaboration of three or more disciplines
- Demonstration of need
- Presentation of project concept
- Presentation of work plan and budget
- Impact on the community
- Educational value to students
- Transferability/usability outside an academic setting
- Impact on public's health, safety and welfare
- Matching funds available (bonus points received)

Review of Proposals by Board

- A Grants Committee, appointed annually by the Chair of the Board, shall review submitted proposals, evaluate each submission for special projects based on the established point system, and make recommendations to the full Board for disbursement of grant funds. Recommendations are to be finalized/acted upon no later than the December Board Meeting.
- Following approval by the Board of amounts, if any, to be expended to each program, the Board's staff shall draft the appropriate grant contract documents for review and approval by designated reviewing and approval authorities.

Administering Grant Funds

Grant funds shall be awarded upon completion of the contract process based upon the amount approved by the Board. A closing report shall be submitted, utilizing an inventory control report, to the Board office as determined by the Board. The inventory control report must include the following information:

- Itemized list of equipment or supplies purchased
- The accredited program for which the equipment or supplies were purchased
- Actual cost of the equipment or supplies
- Property tag numbers (if applicable)

A copy of the invoice(s) for the respective equipment or supplies purchased shall accompany the inventory control report. If grant funds are utilized to pay intern development program fees, examination fees, or other expenses, documentation of these payments shall also be provided.

If the terms of the grant contract are not met by the stated deadlines, the program shall forfeit the grant money allocated to them for that year.

Programs receiving funding for special projects shall be required to make a presentation to the Board at the end of the project. Special project funds may not be used to pay intern development program fees or examination fees for students.

Approved by the Board: August 16, 2001

Revised July 18, 2002

Revised July 22, 2004

Revised October 12, 2006

Revised October 19, 2007

Revised September 18, 2008

Revised June 16, 2011

Revised October 12, 2012

Revised June 12, 2013

Revised June 12, 2014

Revised October 16, 2015

Revised August 11, 2016

2016-17 GRANT DISTRIBUTION							
Equipment/Library Resources/Fees							
Total:	\$ 300,000	(additional \$10,000 available to fund 1% minimum--\$3,000--for programs)					
Architecture Distribution \$ 57,900							
	50% divided equally	Enrollment	%	Request	Enroll Amt	Grant	
UT Knoxville	\$ 14,475	274	72.49	\$ 50,578	\$ 20,986	\$ 35,461	
U of Memphis	\$ 14,475	104	27.51	\$ 28,312	\$ 7,964	\$ 22,439	
Totals	\$ 28,950	378	100		\$ 28,950	\$ 57,900	
Landscape Arch Distribution \$ 6,000							
	Enrollment	Request			Grant		
UT Knoxville	19	Combined with Arch.			\$ 6,000		
Interior Design Distribution \$ 6,300							
Institution	50% divided equally	Enrollment	%	Request	Enroll Amt	1% Min. Amt.	Grant
UT Knoxville	\$ 525	113	24.95	Combined	\$ 786	\$ 1,689	\$ 3,000
UT Chattanooga	\$ 525	90	19.87	\$ 3,000	\$ 626	\$ 1,849	\$ 3,000
MTSU	\$ 525	82	18.1	\$ 3,975	\$ 570	\$ 1,905	\$ 3,000
O'More	\$ 525	72	15.89	\$ 3,000	\$ 501	\$ 1,974	\$ 3,000
ETSU	\$ 525	54	11.92	\$ 3,426	\$ 375	\$ 2,100	\$ 3,000
U of Memphis	\$ 525	42	9.27	Combined	\$ 292	\$ 2,183	\$ 3,000
Totals	\$ 3,150	453	100		\$ 3,150	\$ 11,700	\$ 18,000
Engineering Distribution \$ 229,800							
Institution	50% divided equally	Enrollment	%	Request	Enroll Amt	Grant	
UT Knoxville	\$ 10,446	2751	28.18%	\$ 50,000	\$ 32,379	\$ 42,825	
TN Tech	\$ 10,446	1978	20.26%	\$ 49,996	\$ 23,279	\$ 33,725	
UT Chattanooga	\$ 10,446	1297	13.29%	\$ 29,645	\$ 15,270	\$ 25,716	
U of Memphis	\$ 10,446	1034	10.59%	\$ 30,000	\$ 12,168	\$ 22,614	
Vanderbilt	\$ 10,446	1007	10.31%	\$ 29,914	\$ 11,846	\$ 22,292	
TSU	\$ 10,445	697	7.14%	\$ 19,849	\$ 8,204	\$ 18,649	
CBU	\$ 10,445	288	2.95%	\$ 20,000	\$ 3,390	\$ 13,835	
MTSU	\$ 10,445	268	2.75%	\$ 14,500	\$ 3,160	\$ 13,605	
UT Martin	\$ 10,445	200	2.05%	\$ 15,065	\$ 2,355	\$ 12,800	
Lipscomb	\$ 10,445	198	2.03%	\$ 20,000	\$ 2,332	\$ 12,777	
Union	\$ 10,445	44	0.45%	\$ 15,000	\$ 517	\$ 10,962	
Totals	\$ 114,900	9762	100.00%		\$ 114,900	\$ 229,800	
Total with 1% minimum funding:		\$ 311,700					
<i>Discussion/Methodology:</i>							
1. \$300,000 distributed among professions based on number of active & inactive registrants as of 7/1/16.							
2. Distribution calculated by dividing 50% of allotment among the schools equally, then distributing the remaining 50% based on % of enrollment.							
3. Programs with grant amount below 1% of total (\$3,000) given additional funding to raise grant to \$3,000.							
Special Project Grants							
Total:	\$ 20,000	(one grant of \$20,000 awarded to UT Chattanooga)					
Grand Total (Equipment/Library Resources/Fees/Special Projects):					\$ 331,700		
Approved 12/8/16							

Instructions for Special Project Grants

Please carefully read the criteria below. If you have any questions, please contact Executive Director John Cothron at john.cothron@tn.gov.

The intent of the special grant funding program is for students of architecture, engineering, landscape architecture and interior design to collaborate on a special project. The University of Memphis Department of Architecture and the UT Knoxville College of Architecture and Design have agreed to collaborate with other institutions that do not have an architecture or landscape architecture program to allow the other engineering and interior design programs to create teams for this grant. Project submittals are required to have a minimum of three disciplines on each team in any combination of architecture, engineering, landscape architecture and interior design. Applicants must explain how the percentage of each discipline shall participate in the project. For contractual purposes, one institution must administer the project.

All project submittals shall be presented anonymously to the Grants Committee.

For fiscal year 2017, the grant shall be available for two recipients in the amount of \$20,000.00 each.

Suggested program topics include but are not limited to:

1. Research and Development
2. Community Service Need
3. Energy Conservation / Zero Carbon Output / Sustainability
4. Historic Preservation
5. Low Income/Human Resources/Poverty
6. Educational Needs of the Community
7. Recreational Needs in the Community
8. Other Projects Fulfilling a Need in a Community
9. Health, Safety and Welfare of the Public

The intent is for the grant funding to be used on a project within the State of Tennessee. Special project funds may not be used to pay intern development program fees or examination fees for students.

Proposals shall be evaluated based on the following criteria:

- Collaboration of three or more disciplines
- Demonstration of need
- Presentation of project concept
- Presentation of work plan and budget
- Impact on the community
- Educational value to students

- Transferability/usability outside an academic setting
- Impact on public's health, safety and welfare
- Matching funds available (bonus points received)

Process for Submittal, Acceptance, and Grant Dispersal

- 1) Fill out the application form below and submit to:

John Cothron, Executive Director
Board of Architectural and Engineering Examiners
500 James Robertson Parkway
Nashville, TN 37243-1142
john.cothron@tn.gov

- 2) The Grants Committee of the Board will promptly review your submission and you will be contacted within five (5) days to confirm receipt.
- 3) Project submittals shall be reviewed and critiqued in accordance with the attached grant guidelines and scoring criteria established by the Board.
- 4) By accepting the project grant, you are agreeing to submit a closing report and make a presentation to the A&E Board within 18 months from receipt of the grant funds. Project updates must be submitted to the Board's Executive Director at least one (1) week prior to each regularly scheduled Board meeting during the duration of the project.
- 5) The deadline for special project applications is **October 28, 2016**.
- 6) Special project winners shall be notified after the December 2016 Board meeting.

Application Form for Special Project Grants
Board of Architectural and Engineering Examiners

Date of Application: _____

1) Project title: _____

2) Participating institutions/programs: _____

3) Project leader(s) name and contact information, including e-mail and postal address:

4) In an attachment, without identifying information, please write a summary of the project. In a maximum of 2,000 words, please describe your project, including, but not limited to:

- a) Project title, scope and goal.
- b) Description or plan of how the project will proceed from beginning to end.
- c) Listing of disciplines involved in the project and percentage of work in each category.
- d) Estimated budget for project.
- e) Educational value of project.
- f) Impact on the community.
- g) Impact on the public's health, safety and welfare.

5) Grant recipients shall be required to submit a closing report and make a presentation to the A&E Board within 18 months from receipt of the grant funds. The final presentation shall be a maximum of 10 pages or 5,000 words or one hour.

**SPECIAL PROJECT GRANT PROGRAM
GRANT SCORING CRITERIA**

Proposal # _____ Evaluator _____

Points	Description
	Collaboration of three or more disciplines (5 points) = Application lists the disciplines involved in the project and percentage of participation in each category.
	Demonstration of need (5 points) = Grant proposal clearly and convincingly describes and demonstrates why the project should be funded (e.g., benefits, end products, etc.).
	Presentation of project concept (10 points) = Grant proposal clearly and completely describes what the applicant wishes to accomplish by completing this grant project.
	Presentation of work plan and budget (20 points) = A specific list of the activities, steps or tasks required to complete the project, along with an itemized cost breakdown associated with each activity, step or task, is provided. Quotes, estimates, or other documents are provided to support the claimed costs. Is the proposal cost effective?
	Impact on the community (5 points) = Grant proposal demonstrates how the project will benefit Tennessee and/or the local community.
	Educational value to students (10 points) = Grant proposal explains how the project furthers the educational goals of the institution(s) and helps prepare students for professional practice.
	Transferability/usability outside an academic setting (20 points) = Grant proposal describes how project will have application outside an academic setting.
	Impact on public's health, safety and welfare (25 points) = Grant proposal defines how project positively impacts the public's health, safety and welfare.
Bonus Points	
	Matching funds available (5 points)
	TOTAL POINTS

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) **REDLINE**

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Board of Architectural and Engineering Examiners
Division:	Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person:	Elizabeth Goldstein
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	(615) 532-6304
Email:	elizabeth.goldstein@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures
Rule Number	Rule Title
0120-01-.03	Individuals Registered in Other Jurisdictions
0120-01-.04	Applications - General
0120-01-.06	Applications - Engineer Intern
0120-01-.09	References
0120-01-.10	Education and Experience Requirements - Engineer
0120-01-.11	Education and Experience Requirements - Architect
0120-01-.15	Examinations - Architect
0120-01-.16	Examinations - Landscape Architect

Chapter Number	Chapter Title
0120-04	Interior Designers

Rule Number	Rule Title
0120-04-.03	Applications
0120-04-.05	Experience Requirements

DRAFT

Amendment

Rule 0120-01-.03 Individuals Registered in Other Jurisdictions is amended by changing the rule title to "Clarifications to Offering to Practice" and substituting the following language:

~~(1) Unless properly registered, individuals shall not make use of the title "engineer," "architect," "landscape architect," or any appellation thereof that gives the impression that the individual is an architect, engineer, or landscape architect in Tennessee. Individuals not registered in Tennessee but registered in other jurisdictions may use these titles so long as the jurisdiction in which they are registered is clearly specified so as not to mislead the public regarding their credentials. This clarification is not required on communications from an out-of-state office, provided that the individual is registered in that jurisdiction.~~

~~(2) Individuals registered in other jurisdictions cannot offer or perform architectural, engineering, or landscape architectural services to the public in Tennessee unless they are either acting as consulting associates in accordance with T.C.A. § 62-2-103(2) or working under the responsible charge of a Tennessee registrant.~~

(1) The following items are not considered offering to practice architecture, engineering, or landscape architecture, provided that the architect, engineer or landscape architect is registered in another jurisdiction:

(a) Advertising in publications or electronic media, provided there is no holding out of professional services in jurisdictions where not registered.

(b) Responding to letters of inquiry regarding requests for proposals or requests for qualifications, provided there is written disclosure that the architect, engineer, or landscape architect is not registered in Tennessee and the response is limited to inquiries regarding scope of project and to demonstrate interest.

(c) Responding to letters of inquiry from prospective clients, provided there is written disclosure that the architect, engineer, or landscape architect is not registered in Tennessee and the response is limited to inquiries regarding scope of project and to demonstrate interest.

(d) Using the title "engineer," "architect," "landscape architect," or any appellation thereof, provided that the individual using the title is registered in another jurisdiction and clearly specifies the jurisdiction in which they are registered following the title so as not to mislead the public regarding their credentials.

(e) Using the title "engineer," "architect," "landscape architect," or any appellation thereof in communications from an office in the jurisdiction where registration is held.

(2) Regardless of the above, proposals may not be submitted, contracts signed, or work commenced until the architect, engineer, or landscape architect becomes registered in Tennessee, unless the architect, engineer, or landscape architect is either acting as a consulting associate in accordance with T.C.A. § 62-2-103(2) or working under the responsible charge of a Tennessee registrant.

Authority: T.C.A. §§ 62-2-101, 62-2-103, and 62-203(c).

Rule 0120-01-.04 Applications is amended by deleting paragraph (2) in its entirety and substituting, instead, the following language so that, as amended paragraph (2) shall read:

~~(2) Any application submitted which lacks required information or reflects a failure to meet any requirement will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed five (5) years from the date of application.~~

(2) (a) Comity applications and reapplications for registration as an engineer, architect, and landscape architect and applications for engineer intern certification shall expire one (1) year from the date of application. Upon written request by the applicant, an extension of time may be granted for good cause as determined by the Board.

(b) Applications to sit for professional examinations shall expire five (5) years from the date of application.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-304.

Rule 0120-01-.06 Applications – -Engineer Interns is amended by substituting the following language:

~~An application for certification as an engineer intern shall be accompanied by a nonrefundable fee of fifteen dollars (\$15.00). An applicant who has passed the required examination and has met the other legal requirements shall receive a certificate.~~

Individuals may apply for certification as an engineer intern. An applicant who has passed the required examination and has met the other legal requirements shall receive a certificate.

Authority: T.C.A. §§ 62-2-203(c), 62-2-402(b), and 62-2-404(c)(2).

Rule 0120-01-.09 References is amended by adding a new paragraph (5) to read as follows

(5) Letters of recommendation and reference forms submitted as part of or in supplement to an application for registration as an engineer, architect, or landscape architect shall be confidential and not subject to open records requests.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-301(a).

Rule 0120-01-.10 Education and Experience Requirements – Engineer is amended by deleting paragraph (2) in its entirety and substituting, instead, the following language so that, as amended paragraph (2) shall read:

(2) In general, “progressive experience in the practice of engineering” consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master’s degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. A graduate level degree that is used, in part or in whole, to satisfy the education requirements for registration cannot also be used to satisfy the experience requirements for registration. Unless otherwise noted above, an applicant’s engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Rule 0120-01-.11 Education and Experience Requirements - Architect is amended by adding a new subparagraph (d) to paragraph (3) to read as follows:

(d) For purposes of this paragraph, an architectural degree from a program accredited by the Canadian Architectural Certification Board (CACB), or from a program deemed substantially equivalent by the NAAB, is deemed to be equivalent to a degree from a NAAB-accredited program.

Authority: T.C.A. §§ 62-2-203(c), 62-2-501, 62-2-502 and 62-2-503.

Rule 0120-01-.15 Examinations Architect is amended by deleting the rule in its entirety and substituting, instead, the following language so that, as amended the rule shall read:

~~Examinations administered to candidates for registration as an architect will be prepared by the NCARB.~~

- (1) The NCARB shall prepare and administer examinations for candidates for registration as an architect. The use of materials, reference books, notes, calculators and equipment in such examinations shall be in accordance with instructions from the NCARB.
- (2) Applicants shall apply directly to NCARB for admittance to the examination needed for registration as an architect.

Authority: T.C.A. §§ ~~62-204~~62-2-203(c) and 62-20-504(a).

Rule 0120-01-.16 Examinations Landscape Architect is amended by deleting the rule in its entirety and substituting, instead, the following language so that, as amended the rule shall read:

~~Written examinations prepared by CLARB will be offered to applicants for registration as a landscape architect.~~

- (1) The CLARB shall prepare and administer examinations for candidates for registration as a landscape architect. The use of materials, reference books, notes, calculators and equipment in such examinations shall be in accordance with instructions from the CLARB.
- (2) Applicants shall apply directly to CLARB for admittance to the examination needed for registration as a landscape architect.

Authority: T.C.A. §§ ~~62-204~~62-2-203(c) and 62-20-804(a).

Rule 0120-04-.03 Applications is amended by adding a new paragraph (3) to read as follows:

- (3) Applications and reapplications for registration as a registered interior designer shall expire one (1) year from the date of application. Upon written request by the applicant, an extension of time may be granted for good cause as determined by the Board.

Authority: T.C.A. §§ 62-2-203(c), 62-2-301(a), 62-2-904 and 62-2-905.

Rule 0120-04-.05 Experience Requirements is amended by adding a new subparagraph (e) to paragraph (5) read as follows:

- (e) Letters of recommendation and reference forms submitted as part of or in supplement to an application for registration as a registered interior designer shall be confidential and not subject to open records requests.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-904(a).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Susan K. Ballard, RID					
Frank W. Wagster, RA					
Philip K.S. Lim, PE					
Robert Campbell, Jr. PE					
Susan Hadley Maynor					
R. Blair Parker, RLA					
Richard D. Thompson, RA					
Brian Tibbs, RA					
Kathryn S. Ware, PE					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

DRAFT

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The amendment to Rule 0120-01-.03 clarifies what is not considered an “offer to practice architecture, engineering, or landscape architecture. The amendment further clarifies that an architect, engineer, or landscape architect must become registered in Tennessee before any proposals may be submitted, any contracts may be signed, and any work may be commenced. Small businesses which contain licensed architects, engineers, or landscape architects may benefit from this amendment because the amendment clarifies that registration is required for any out of state architect, engineer, or landscape architect to offer to practice in Tennessee.

The amendments to Rules 0120-01-.04 and 0120-04-.05 reduce the length of time that comity applications, reapplications, and engineering intern applications are held in a “pending” status with the Tennessee Board of Architectural and Engineering Examiners (“Board”) from five years to one year. These rule changes will not impact small businesses.

The amendment to Rule 0120-01-.06 eliminates a \$15.00 application fee for engineer interns. Small businesses may have paid this fee for interns in the past, but will no longer have to pay the fee.

The amendments to Rules 0120-01-.09 and 0120-04-.05 make letters of recommendation and references submitted as part of applications confidential. This rule could benefit small businesses by creating a more honest and open referral process for applicants. Often, applicants will have practitioners and licensees from the applicant’s desired industry submit these references. Currently, the Board licenses 1,466 firms and 9,339 individuals located in Tennessee. These licensees and registrants often own or work for small businesses. They also often act as the references for interns and applicants seeking licensure, so they will benefit from the new confidentiality both from having their references protected as well as by increasing honesty in the licensing scheme, which in turn will provide more qualified licensees to employ.

The amendment to Rule 0120-01-.11 adds back to the rules the ability for applicants with education through qualified Canadian programs to apply for licensure. This rule was mistakenly removed, and this amendment merely restores it. This rule could positively impact small businesses by increasing the qualified applicants available for licensure and ultimately employment in the State of Tennessee.

The amendments to Rules 0120-01-.15 and 0120-01-.16 allow applicants to apply to sit and test for required examinations directly with the testing entity. Without this rule, applicants must apply with the Board and the testing entity. The process has been seen as confusing to some applicants. These amendments would simplify and streamline the testing procedures for potential licensees. These changes would benefit small businesses if those businesses cover application fees for interns or other employees sitting for testing. Currently, the applicant must pay the \$30 application fee and then attempt to pass his or her examinations. If testing takes longer than five years to pass, the application expires, and the applicant must pay the application fee again. Now, the applicants will not apply with the Board until they have passed their examinations. This simplicity may benefit small businesses that assist in the cost in getting an employee licensed.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

These rule changes will reduce administrative and recordkeeping costs, because applications will be maintained and stored for shorter periods of time. Currently, because of the five-year hold requirement for certain applications, the Tennessee Board of Architectural and Engineering Examiners is storing and maintaining more applications than any other Board housed in the Tennessee Department of Commerce and Insurance. Professional licensing staff must be trained in the utilization of multiple electronic databases in order to store these applications. The rule changes will reduce the quantity of applications both by reducing the time certain applications must be stored, and by streamlining the process for when applicants apply. Because under the rule changes applicants will only apply after passing examinations, applications will be processed much faster and the cost associated with maintaining pending applications will be reduced.

(3) A statement of the probable effect on impacted small businesses and consumers.

Small businesses will save money and time due to the ability to have future employees those businesses wish to have licensed test directly with the provider without having to first apply with the Board. Both consumers and businesses will also benefit if they wish to submit a recommendation to the Board, because those documents will be made confidential under this rule.

Tennessee small businesses will likely have an advantage when offering to practice in Tennessee, as the amendment clarifies that any out of state architect, engineer, or landscape architect must be licensed in Tennessee before they can offer to practice. Additionally, the confidentiality of references will encourage candid responses, ensuring more qualified licensees will be entering the profession and offering services to consumers. Also, engineer intern applicants will no longer have to pay a fee.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Board believes that this change is not burdensome, intrusive or costly and – as such – there do not appear to be any alternatives that would reasonably be expected to be less burdensome.

(5) A comparison of the proposed rule with any federal or state counterparts.

These rules do not have any federal or state counterparts.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exemption from these rules would not be expected to be beneficial for small businesses because the effects of these rules on small businesses are tangential at best, and all expected effects would be positive for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule changes are not expected to impact local governments.

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Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendments to Rule 0120-01-.03 list specifically what is not considered to be “offering to practice” architecture, engineering, or landscape architecture. The amendments also clarify that an architect, engineer, or landscape architect must become registered in Tennessee before submitting proposals, signing contracts, or commencing work.

The amendments to Rules 0120-01-.04 and 0120-04-.05 reduce the length of time that comity applications, reapplications, and engineering intern applications are held in a “pending” status with the Tennessee Board of Architectural and Engineering Examiners (“Board”) from five years to one year.

The amendment to Rule 0120-01-.06 eliminates a \$15.00 application fee for engineering interns. Small businesses may have paid this fee for interns in the past, but will no longer have to pay the fee.

The amendments to Rules 0120-01-.09 and 0120-04-.05 make letters of recommendations and references submitted as part of applications confidential.

The amendment to Rule 0120-01-.11 adds back to the rules the ability for applicants with education through qualified Canadian programs to apply for licensure. This rule was mistakenly removed, and this amendment merely restores it.

The amendments to Rules 0120-01-.15 and 0120-01-.16 allow applicants to apply to sit and test for required examinations directly with the testing entity. Without this rule, applicants must apply with the Board and the testing entity. The process has been seen as confusing to some applicants. These amendments would simplify and streamline the testing procedures for potential licensees.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no known state or federal law mandating the promulgation of these rules.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Applicants will be affected by these rules. Additionally, individuals who submit letters of recommendation or references for applicants will be affected. No objections or concerns regarding these rules have been voiced by affected parties.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial ruling that directly relates to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

It is anticipated that the elimination of the \$15 engineer intern application fee will reduce Board revenue by approximately \$5,000 a year based on the number of applications received in the last fiscal year. Surplus revenue from the collection of other fees will enable the Board to absorb this loss and remain self-sufficient, as

required by T.C.A. § 4-29-121.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John Cothron, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
(615) 741-3221
John.Cothon@tn.gov

Elizabeth Goldstein, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
(615) 741-3072
Elizabeth.Goldstein@tn.gov

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Cothron, Executive Director
Elizabeth Goldstein, Assistant General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

John Cothron, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
(615) 741-3221
John.Cothon@tn.gov

Elizabeth Goldstein, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
(615) 741-3072
Elizabeth.Goldstein@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.



MINUTES OF A MEETING OF THE
TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
Davy Crockett Tower
Nashville, Tennessee
Thursday, February 16, 2017

CALL TO ORDER

Susan Ballard, Chair, called the regular meeting of the Tennessee Board of Architectural and Engineering Examiners to order at 9:10 a.m. on February 16, 2017, at the Davy Crockett Tower, in Nashville, Tennessee. A quorum was declared present.

The following **Board members** were present:

Susan Ballard	Registered Interior Designer
Robert Campbell, Jr.	Professional Engineer
Philip Lim	Professional Engineer
Susan Maynor	Public Member
Blair Parker	Registered Landscape Architect
Rick Thompson	Registered Architect
Frank Wagster	Registered Architect
Kathryn Ware	Professional Engineer

The following **Board member** was absent:

Brian Tibbs	Registered Architect
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The following **Associate Engineer members** were present:

Stephen King	Professional Engineer
Laura Reinbold	Professional Engineer
Ricky Bursi	Professional Engineer

The following **Board staff** was present:

John Cothron	Executive Director
Wanda Garner	Administrative Assistant
Wanda Phillips	Office Manager
Elizabeth Goldstein	Assistant General Counsel
Vanessa Huntsman	Paralegal
Sara Page	Assistant General Counsel
Matthew Reddish	Assistant General Counsel

The following **guests** were present for part or all of the meeting:

Kasey Anderson, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN)
Don Baltimore, Tennessee Interior Design Education and Advocacy (TN IDEA)
Ashley Cates, American Institute of Architects-Tennessee (AIA-TN)
Chris Gwaltney, P.E., representing the American Society of Civil Engineers (ASCE) Tennessee Section
Nathan Ridley, American Society of Landscape Architects TN (ASLA-TN)

Mr. Cothron announced that Brian T. McCormack has been promoted to Deputy Commissioner, and that Ann McGauran has been appointed as the new State Architect. Ms. Ballard suggested inviting Ms. McGauran to attend a future Board meeting.

Motion was made by Mr. Lim and seconded to accept the agenda without changes and/or additions. The motion passed unanimously.

CONSENT AGENDA (attached)

Motion was made by Mr. Thompson and seconded to approve the minutes of the December 8, 2016 meeting. The motion passed unanimously.

Motion was made by Mr. Campbell and seconded to approve the Complaints for Board Decision. The motion passed unanimously.

PROFESSIONAL SOCIETY REPORTS

Kasey Anderson, Don Baltimore, Nathan Ridley, and Ashley Cates reported on the activities of the TSPE/ACEC-TN, TN IDEA, ASLA-TN, and AIA-TN, respectively.

Ms. Anderson and Ms. Cates reported on legislation being tracked by their societies and efforts to maintain qualifications-based selection for public projects.

Mr. Baltimore expressed concern regarding HB0556/SB0449, which, as introduced, requires state governmental entities that establish or adopt guides to practice to do so through the promulgation of rules.

LEGAL CASE REPORT (presented by Sara Page and Matthew Reddish) (attached)

1. *Case No. #2016069061* *Complaint #201606906*
Motion was made by Mr. Campbell and seconded to close the case with a Letter of Caution. The motion passed unanimously.
2. *Case No. #2016049061* *Complaint #201604906*
Motion was made by Mr. Wagster and seconded to authorize a formal hearing with the authority to settle with a Consent Order for a one thousand dollar (\$1,000.00) civil penalty, a requirement to complete 24 hours of professional development prior to the Respondent's registration becoming activated again, and to take and pass the Board's law and rules exam. The motion passed unanimously.
3. *Case No. #2016053951* *Complaint #201605395*
Motion was made by Mr. Campbell and seconded to authorize a formal hearing with the authority to settle with a Consent Order for a four thousand dollar (\$4,000.00) civil penalty, a six-month suspension of the Respondent's certificate of registration, and a requirement to take and pass the Board's law and rules exam.

After discussion, Mr. Campbell withdrew his motion. Motion was then made by Mr. Wagster and seconded to authorize a formal hearing with the authority to settle with a Consent Order for a six thousand dollar (\$6,000.00) civil penalty (\$750.00 x 8 sheets) and a requirement to take and pass the Board's law and rules exam. The motion passed unanimously.

Motion was made by Ms. Ware and seconded to investigate two other projects in which the Respondent was involved. The motion passed unanimously.

4. *Case No. #2017000671* *Complaint #201700067*
Motion was made by Mr. Campbell and seconded to authorize a formal hearing with the authority to settle with a Consent Order for a five hundred dollar (\$500.00) civil penalty and a requirement to take and pass the Board's law and rules exam. The motion passed unanimously.

5. *Case No. #2016049151* *Complaint #201604915*
Mr. Thompson asked to be recused because he was out of the room during discussion.

Mr. Wagster asked to be recused because he helped review the file.

Motion was made by Mr. Campbell and seconded to authorize a formal hearing with the authority to settle with a Consent Order to revoke the Respondent's certificate of registration. The motion passed.

6. *Case No. #2017000581* *Complaint #201700058*
Motion was made by Mr. Campbell and seconded to close the case. The motion passed unanimously.

7. *Case No. #2014028891* *Complaint #201402889*
Motion was made by Mr. Thompson and seconded to close the case. The motion passed unanimously.

8. *Case No. #2017008721* *Complaint #201700872*
Motion was made by Mr. Lim and seconded to authorize a formal hearing with the authority to settle with a Consent Order for a two thousand five hundred dollar (\$2,500.00) civil penalty and a requirement to take and pass the Board's law and rules exam. The motion passed unanimously.

Break 10:45 a.m. – 11:04 a.m.

DIRECTOR'S REPORT

Mr. Cothron reported his activities and those of his staff and Board members.

Licensing Data was presented for informational purposes only. (attached)

Complaint Data was presented for informational purposes only. (attached)

Financial Data was presented for informational purposes only. (attached)

LEGISLATIVE UPDATE

Mr. Cothron reviewed pending legislation of interest to the Board, including the following:

- HB0300/SB1188—Amends T.C.A. § 62-2-401(a)(1) to replace language stating that applicants for engineer registration must be certified as an engineer intern with language stating that applicants must have passed the Fundamentals of Engineering exam. This change was requested as a legislative proposal last year.

- HB0597/SB0329—As introduced, would allow persons holding a master's degree in engineering to qualify for engineer registration with four years of engineering experience and engineer intern certification.

A motion was made by Ms. Ware and seconded to oppose this bill as introduced on the basis that the current registration requirements (four-year degree in engineering,

experience, and examination) should be maintained to ensure that individuals are qualified to practice engineering. The motion passed unanimously.

- HB0326/SB1217—As introduced, would allow a supervising official to override rules and decisions of a board or commission that may constitute unreasonable restraints of trade.

A motion was made by Mr. Campbell and seconded to express concern regarding this legislation as introduced on the basis that the bill places too much authority in the hands of one person, and that adequate safeguards are already in place for Board actions. The motion passed unanimously.

- HB1408/SB1061—As introduced, would remove the exemption from the competitive bidding requirement for design and consultant contracts entered into by the Tennessee Department of Transportation.

A motion was made by Mr. Campbell and seconded to oppose this bill as introduced on the basis that qualifications-based selection of design professionals for public projects is in the best interest of the state and the public. The motion passed unanimously.

Mr. Cothron also reported that Section 7, Item 35 of the appropriations bill (HB0511/SB0483) earmarks \$350,000 for the Board's grants program.

COMMITTEE REPORTS

The minutes of each Committee meeting follow these minutes.

- *The Engineer Committee Report*
The Engineer Committee, through Ms. Reinbold, reported on Committee discussions. The minutes of the Engineer Committee meeting follow these minutes.
- *The Finance Committee Report*
The Finance Committee, through Mr. Lim, reported on Committee discussions.

The Finance Committee moved that the Board eliminate the \$15.00 engineer intern application fee, which would promote licensure and help students. The motion passed unanimously.

The minutes of the Finance Committee meeting follow these minutes.

- *The Law and Rules/Policies Committee Report*
The Law and Rules/Policies Committee, through Mr. Thompson, reported on Committee discussions.

The Law and Rules/Policies Committee moved that the Board repeal the design competitions/RFPs/RFQs policy, add information to the Board's frequently asked questions clarifying that offering services prior to registration is prohibited, and direct legal counsel to revise Rule 0120-01-.03 to provide clarifications to offering to practice. The motion passed unanimously.

The Law and Rules/Policies Committee moved to repeal the following policies that have been moved to rules:

- Construction Documents and Use of the Seal
- Inactive Status
- Law and Rules Exam
- Multiple Registrants' Seals on a Document
- Definition of Original Sheets
- Prototypical Plans, CAD, and U.S. Postal Services Kit of Parts
- Registration Expired in Another State, Tennessee Residents
- Use of Title if Registered in Other Jurisdictions

The motion passed unanimously.

Mr. Thompson reported that the Law and Rules/Policies Committee had voted to recommend that the Board approve the proposed rule changes. However, since additional rule changes were necessary, action on the proposed rules was deferred to the April Board meeting. The Law and Rules/Policies Committee will meet prior to the April Board meeting to discuss proposed rule changes.

The minutes of the Law and Rules/Policies Committee meeting follow these minutes.

UNFINISHED BUSINESS

- *Action Items* (attached)
The action items taken from the December meeting were reviewed and the required action had either been taken or is in process.
 - Relevant authorities are reviewing the *Reference Manual*.
 - Grant contracts have been drafted, and they should all be effective by March.

Mr. Thompson left at 12:23 p.m.

- *Qualifications-Based Selection FAQs*
Ms. Goldstein presented proposed revisions to the qualifications-based selection FAQs for the Board's consideration. Mr. Lim suggested moving the proposed disclaimer language to the beginning of the FAQs. The proposed FAQ revisions will be re-presented to the Board in April.
- *Potential Rule Changes*
Proposed rule changes will be submitted at the April meeting.
- *October 2017 Meeting Location*
Mr. Cothron reported that the October Board meeting will be held on the Vanderbilt University campus.

NEW BUSINESS

- *Reapplication Requirements*
Mr. Cothron asked the Board if individuals reapplying for registration in Tennessee should be required to submit new National Council of Architectural Registration Boards (NCARB) and Council of Landscape Architectural Registration Boards (CLARB) Council records. Board members agreed that a new Council record should be required only if the person reapplying for registration is currently registered in another jurisdiction, in

which case the comity law (T.C.A. § 62-2-304) would apply. If they are not currently registered in another jurisdiction, a Council record is not required.

- *Call for Officer Nominations*
The Nominations Committee will meet prior to the April Board meeting to discuss officer nominations.

- *Authorization of Travel and Speakers*
 - Motion was made by Mr. Lim and seconded to authorize Mr. Campbell to attend the 2017 National Council of Examiners for Engineering and Surveying (NCEES) Northeast/Southern Zone Joint Interim Meeting in St. Thomas, Virgin Islands. The motion passed unanimously.

 - Motion was made by Mr. Campbell and seconded to authorize Mr. Cothron to speak at a Middle Tennessee Structural Engineers Association meeting on March 1 regarding the Board's enforcement efforts, and to travel to the University of Tennessee in Knoxville for the College of Architecture and Design Career Day on February 24. The motion passed unanimously.

Mr. Bursi suggested that the Board should discuss definitions of practice and incidental practice provisions at the October planning session and meeting.

The meeting adjourned at 12:49 p.m.

ATTACHMENTS



MINUTES
BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
ENGINEER COMMITTEE MEETING
Davy Crockett Tower
Nashville, Tennessee
Wednesday, February 15, 2017

CALL TO ORDER

Laura Reinbold, P.E., Committee Chair, called the Engineer Committee meeting to order at 1:00 p.m. on February 15, 2017, in Room 1-B of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, Tennessee.

The following **Engineer Board members** were present:

Laura Reinbold, P.E.	Chair, Middle TN Associate Member
Ricky Bursi, P.E.	West TN Associate Member
Robert Campbell, P.E.	East TN Member
Stephen King, P.E.	East TN Associate Member
Philip Lim, P.E.	West TN Member
Kathryn Ware, P.E.	Middle TN Member

A quorum was present.

The following **Board staff** was present for part or all of the meeting:

John Cothron	Executive Director
Anthony Glandorf	Chief Counsel, Regulatory Boards Division
Elizabeth Goldstein	Assistant General Counsel
Vanessa Huntsman	Paralegal
Sara Page	Assistant General Counsel
Wanda Phillips	Administrative Manager
Matthew Reddish	Assistant General Counsel

Visitors present: Chris Gwaltney, P.E., representing the American Society of Civil Engineers (ASCE), Tennessee Section; Richard Sullivan, P.E. (reapplying)

NEW BUSINESS

REVIEW OF CRITERIA FOR FULFILLMENT OF HUMANITIES/SOCIAL SCIENCES (GENERAL EDUCATION) DEFICIENCIES

Mr. Campbell and Mr. King presented possible additions to the Engineer Committee policy entitled “Criteria for Fulfillment of the ABET Humanities/Social Sciences (General Education) Requirement.” Proposed additions included credit for publishing technical papers, presentations, and teaching college courses. Mr. Campbell will draft revisions for consideration at the April committee meeting.

APPLICATIONS AND AUDITS FOR DISCUSSION

- **Richard Dee Sullivan** (Reapply) – Following a discussion with Mr. Sullivan regarding the circumstances leading to his lapsed registration, a motion was made by Mr. Campbell and seconded to approve the reapplication. The motion passed unanimously.
- **Shayne Christopher Aune** (Exam) – Following discussion of the applicant’s experience, a motion was made by Mr. Campbell and seconded to approve the applicant to sit for the Principles and Practice of Engineering (PE) exam. The motion passed unanimously.
- **Shane Robert Ford** (Exam) – Following discussion of the applicant’s experience, a motion was made by Ms. Ware and seconded to approve the applicant to sit for the PE exam. The motion passed unanimously.
- **Gregory Kyle Garcia** (Exam) – Following discussion of the applicant’s request to sit for the PE exam in April 2017 instead of October 2017, a motion was made by Mr. Lim and seconded to approve the applicant to sit for the PE exam in April 2017. The motion passed unanimously.
- **Ashish Ghosh** (Comity) – Following discussion of the applicant’s request to pass tests in lieu of completing courses to remedy a 15 semester hour deficiency in mathematics/basic sciences, a motion was made by Mr. Lim and seconded to require the applicant to complete 15 semester hours of pre-approved courses to remedy the deficiency. The motion passed unanimously.
- **John McGinness Greer** (Exam) – Following discussion of the applicant’s experience, a motion was made by Mr. Lim and seconded to approve the applicant to sit for the PE exam in October 2017. The motion passed unanimously.
- **Zachary Brian Lang** (Comity) – Following discussion of the applicant’s educational deficiency (1 semester credit hour in engineering sciences and design), a motion was made by Mr. Campbell and seconded to waive the deficiency and approve the application. The motion passed unanimously.

- **Laura Jane Pearce** (Exam) – Following discussion of the applicant’s experience and references, a motion was made by Mr. Campbell and seconded to disapprove the application. The motion passed unanimously.
- **Nicholas Joseph Renna** (Exam) – Following discussion of the applicant’s experience, a motion was made by Ms. Ware and seconded to approve the applicant to sit for the PE exam. The motion passed with five Board members voting for the motion and Mr. Campbell voting against it.
- **Zachary David Thompson** (Exam) – Following a discussion of the applicant’s experience, a motion was made by Mr. Campbell and seconded to approve the applicant to sit for the PE exam in April 2018. It was noted that the applicant could sit earlier with documentation of additional engineering experience. The motion passed unanimously.
- **Kevin Edgar Wilson** (Exam) – Following discussion of the applicant’s experience, a motion was made by Ms. Ware and seconded to disapprove the application. The motion passed unanimously.

ELECTRONIC SEALS AND SIGNATURES REQUIREMENTS

Mr. Campbell discussed the process for electronic seals and signatures utilized in Florida, which allows registrants to seal a cover page instead of sealing each sheet separately. This procedure dramatically speeds up the process of sealing and making revisions to plans. The Tennessee Department of Transportation has expressed interest in adopting this process in Tennessee.

QUALIFICATIONS OF CONTINUING EDUCATION INSTRUCTORS

In connection with a recent continuing education audit, Mr. Campbell expressed concern that continuing education courses on a wide variety of subjects were apparently taught by one person. Mr. Cothron was asked to contact the course provider for more information on the qualifications of the instructor (Ron Finger).

2016 EXAMINATION RESULTS

Mr. Cothron reviewed the 2016 engineering examination results and noted that the number of Fundamentals of Engineering (FE) examination candidates has steadily increased since 2014.

REPORT ON NCEES BOARD PRESIDENTS’ ASSEMBLY

Ms. Reinbold and Mr. Cothron reported on the NCEES Board Presidents’ Assembly, which was held in Atlanta, Georgia on February 3-4, 2017. A transition plan for converting the professional

engineering exams to a computer-based format was presented (the transition will begin in 2018), and committees reported on possible motions that will be discussed and voted on at the Annual Meeting in August.

UNFINISHED BUSINESS

ATTENDANCE AT 2017 NCEES SOUTHERN ZONE MEETING

Mr. Cothron reported that he and Ms. Reinbold met with Assistant Commissioner Brian T. McCormack in January to discuss the Engineer Committee's request to attend the 2017 NCEES Northeast/Southern Zone Joint Interim Meeting in St. Thomas, Virgin Islands. Following this meeting, a travel authorization request to send one Board member (Mr. Campbell) to this meeting was approved.

ENERGY SERVICE COMPANIES AND ENGINEERING REGISTRATION LAWS

Mr. Cothron reported that the Association of Energy Engineers (AEE) requested additional information regarding the Board's concerns, which he has provided. He is currently waiting on their response.

Adjourn. Ms. Reinbold adjourned the meeting at 3:39 p.m.



MINUTES
BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
FINANCE COMMITTEE MEETING
Davy Crockett Tower
Nashville, Tennessee
Wednesday, February 15, 2017

CALL TO ORDER

Philip Lim, Committee Chair, called the Finance Committee meeting to order at 4:00 p.m. on February 15, 2017, in Room 1-B of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, Tennessee.

The following **Board members** were present:

Philip Lim, P.E.
Susan Ballard, R.I.D.
Robert Campbell, Jr., P.E.

A quorum was present.

The following **Board staff** was present:

John Cothron	Executive Director
Anthony Glandorf	Chief Counsel, Regulatory Boards Division
Elizabeth Goldstein	Assistant General Counsel
Vanessa Huntsman	Paralegal
Sara Page	Assistant General Counsel
Matthew Reddish	Assistant General Counsel

NEW BUSINESS

REDUCTION OR ELIMINATION OF FEES

In regard to the Board's recent request to increase the grants appropriation to \$500,000, Assistant Commissioner Brian T. McCormack encouraged the Grants Committee to consider the reduction or elimination of application fees before requesting an increase in the appropriation amount. At the December 2016 Board meeting, the Finance Committee agreed to study this issue and make a recommendation to the Board.

Following discussion of possible fee reductions or eliminations, a motion was made by Mr. Campbell and seconded to recommend that the Board eliminate the \$15.00 engineer intern application fee, which would promote licensure and help students. The motion passed unanimously.

Adjourn. The Chair adjourned the meeting at 4:22 p.m.



MINUTES
BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
LAW AND RULES/POLICIES COMMITTEE MEETING
Davy Crockett Tower
Nashville, Tennessee
Thursday, February 16, 2017

CALL TO ORDER

Rick Thompson, R.A., Committee Chair, called the Law and Rules/Policies Committee meeting to order at 8:12 a.m. on February 16, 2017, in Room 1-A of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, Tennessee.

The following **Board members** were present:

Rick Thompson, R.A., Chair
Susan Ballard, R.I.D.
Robert Campbell, Jr., P.E.
Susan Maynor
Blair Parker, R.L.A.
Laura Reinbold, P.E., Associate Member

A quorum was present.

The following **Board staff** was present:

John Cothron	Executive Director
Anthony Glandorf	Chief Counsel, Regulatory Boards Division
Elizabeth Goldstein	Assistant General Counsel
Vanessa Huntsman	Paralegal
Sara Page	Assistant General Counsel
Matthew Reddish	Assistant General Counsel

Visitor present: Kasey Anderson, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN)

NEW BUSINESS

REVIEW OF DESIGN COMPETITIONS/RFPs/RFQs POLICY

The existing Board policy regarding participation in design competitions or submission of responses to requests for proposals (RFPs)/requests for qualifications (RFQs) prior to registration was discussed. Ms. Page expressed concern that the policy may contradict the law, since the law prohibits offering services prior to registration. Mr. Cothron noted that the clarifications to offering to practice in the NCEES *Model Rules* (Rule 210.30) could be incorporated in Rule 0120-01-.03 to provide clarification on this issue.

A motion was made by Mr. Campbell and seconded to recommend that the Board repeal the design competitions/RFPs/RFQs policy, add information to the Board's frequently asked questions clarifying that offering services prior to registration is prohibited, and direct legal counsel to revise Rule 0120-01-.03 to provide clarifications to offering to practice. The motion passed unanimously.

REPEAL OF POLICIES MOVED TO RULES

A motion was made by Ms. Reinbold and seconded to recommend that the Board repeal the following policies that have been moved to rules:

- Construction Documents and Use of the Seal
- Inactive Status
- Law and Rules Exam
- Multiple Registrants' Seals on a Document
- Definition of Original Sheets
- Prototypical Plans, CAD, and U.S. Postal Services Kit of Parts
- Registration Expired in Another State, Tennessee Residents
- Use of Title if Registered in Other Jurisdictions

The motion passed unanimously.

POTENTIAL RULE CHANGES

Committee members reviewed potential rule changes as drafted by legal counsel. Proposed changes included:

- Amending Rules 0120-01-.04 Applications and 0120-04-.03 Applications to state that comity applications, reapplications, registered interior designer applications, and

engineer intern applications shall expire one (1) year from the date of application, with a provision to request an extension of time for good cause.

- Amending Rules 0120-01-.09 References and 0120-04-.05 Experience Requirements to state that letters of recommendation and reference forms shall be confidential.
- Amending Rule 0120-01-.10 Education and Experience Requirements – Engineer to state that a graduate level degree that is used, in part or in whole, to satisfy the education requirements for registration cannot also be used to satisfy the experience requirements for registration.
- Amending Rule 0120-01-.11 Education and Experience Requirements – Architect to restore a paragraph regarding the equivalency of architectural degrees from programs accredited by the Canadian Architectural Certification Board (CACB), or from programs deemed substantially equivalent by the National Architectural Accrediting Board (NAAB), which was inadvertently deleted in a previous rulemaking.
- Amending Rules 0120-01-.15 Examinations – Architect and 0120-01-.16 Examinations – Landscape Architect to allow exam applicants to apply directly to NCARB or CLARB for admittance to professional examinations.

Ms. Page noted that the engineer intern application fee elimination will be added to the proposed rules if it is approved by the Board.

Mr. Campbell asked that comity applicants with applications over one (1) year old be contacted when the rule change regarding the expiration of applications takes effect to notify them that they may request an application extension.

A motion was made by Ms. Reinbold and seconded to recommend that the Board approve the proposed rule changes. The motion passed unanimously.

Adjourn. Mr. Thompson adjourned the meeting at 9:00 a.m.

STATE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS

April 6, 2017

COMPLAINTS FOR BOARD DECISION

1. Complaint #201701454

Respondent was disciplined by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects. The disciplinary action was less than a suspension or revocation. The Board's Executive Director issued a Letter of Caution in accordance with Board policy. Recommend closure.

2. Complaint #201701459

Respondent was disciplined by the North Carolina Board of Examiners for Engineers and Surveyors. The disciplinary action was less than a suspension or revocation. The Board's Executive Director issued a Letter of Caution in accordance with Board policy. Recommend closure.

3. Complaint #201701461

Respondent was disciplined by the South Carolina State Board of Registration for Professional Engineers and Surveyors. The disciplinary action was less than a suspension or revocation. The Board's Executive Director issued a Letter of Caution in accordance with Board policy. Recommend closure.

4. Complaint #201701985

Respondent was disciplined by the South Carolina State Board of Registration for Professional Engineers and Surveyors. The disciplinary action was less than a suspension or revocation. The Board's Executive Director issued a Letter of Caution in accordance with Board policy. Recommend closure.

FS
4/4/17



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER, 5TH FLOOR
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 741-4000**

CONFIDENTIAL ATTORNEY WORK PRODUCT

TO: TN Board of Architectural and Engineering Examiners

FROM: Legal Counsel

DATE: April 6, 2017

SUBJECT: April Legal Report

1) 2017015471 Landscape Architect

Respondent's license expired on May 31, 2016. Respondent contacted the Board staff and self-reported on January 25, 2017. Respondent states that their office manager paid their professional privilege tax on the same date as the license expiration, which confused staff into believing they paid to renew the license. Additionally, Respondent moved offices at the beginning of 2016, and failed to update their address with the Board, so Respondent never received renewal notices. Respondent practices high-end residential landscape architecture. Respondent states 99% of their projects are residential. Respondent provided a list of forty-nine projects sealed while Respondent's license was expired. Of those, forty-one were site plans, six were site/plot plans, one was a site plan permit revision, and one was a schematic design. All of the projects seem to be residential projects.

History: None

Mitigating Factors:

- (1) Self-reported/Unintentional;
- (2) No disciplinary history (licensed since 2006);
- (3) Most, if not all, of the sealed projects likely did not require a seal from a registered landscape architect due to nature of the residential project under the exemption in TENN. CODE ANN. § 62-21-02(b)(1);
- (4) No consumer complaints or reported harm or issues;
- (5) Did not receive renewals due to move (although Respondent's fault).

Aggravating Factors: (1) Number of projects/Length of operating time while expired.

Recommendation: Authorize a civil penalty in the amount of \$4,000 (\$500 x 8 months of expired operation) to be settled by Consent Order or a formal hearing. Respondent must also take and pass the laws and rules examination.

Board Decision:

2) 2016068881 Engineer

Complainant is a codes official. Complainant called Board Staff and alleged Respondent was not competent in their preparation of plans for a zip line. Complainant provided a page of the IBC with the handrail section highlighted, but did not provide any other indication of the specific concerns they had with the plans. Respondent responded and stated they were competent, and that this was their twentieth zip line project. Respondent stated that Complainant was incorrectly trying to apply the IBC to the zip line. Legal's research indicated the IBC would not necessarily apply to the full zip line project.

In an effort to get a more clear explanation of Complainant's position, an investigation was conducted. When speaking with the investigator, Complainant stated their main issue with the Respondent was the speed in which Respondent returned the plans after Complainant made suggestions. Complainant stated, however, that the project was not going forward after all, and the complaint should be closed. Complainant would not provide any written documentation regarding specific concerns with the project.

Additionally, the plans were provided to Ricky Bursi for a general review. While it was concluded a structural engineer may have more comments on the plans, after discussion, Mr. Bursi and legal agreed that without the cooperation of the Complainant, and what seems to be a disagreement between codes and the Respondent, with Respondent being correct as far as Legal's research had indicated, this complaint should be closed.

Legal has not summarized mitigating/aggravating factors for this complaint since it is recommended this matter be closed.

History: None

Reviewer: Ricky Bursi

Recommendation: Close.

Board Decision:

3) 2016069331 Engineer

This matter involves a dispute between a city and a privately-owned landfill. The controversy involves many elements such as whether public hearings were held for certain permits, disputes with TDEC, and questions over approvals in the past. The city, the landfill, and other organizations have been litigating certain issues with this property for five years. The city has been unsuccessful to date. Respondent in this matter is an engineer that assisted the original property owners in obtaining certain permits.

Complainant alleged Respondent violated the Board's rules by (1) not disclosing a pecuniary interest in the success of the landfill and (2) failing to disclose a city easement over the landfill property. Complainant attached as evidence a letter from the city the landfill is located in to the United States Environmental Protection Agency. Complainant bracketed sections of the letter to indicate issues with the Respondent. For clarity, the following will include the section of the letter, and Respondent's response:

Accusation 1: The first section alleges Respondent and Respondent's company did not include the city's waterline easement in its initial permit design plans submitted to TDEC between 2007 and 2014. The letter states Respondent was aware of the easement at least since 2009, and the easement has been public record since 2004.

Response to Part 1: Respondent states they were unaware of the waterline or the easement until a new survey was conducted in 2009. Between 1999 and 2007, Respondent assisted the property owners of the landfill on a speculative basis by helping with permit applications for expansion and changes in use. Respondent helped with the first approved application for landfill use in 2000 based on a 1995 survey Respondent was provided by the property owner. The permit allowed the property that was at the time a chert quarry, to take in solid waste in the form of tires.

For the second application for expansion of the landfill footprint in 2004, Respondent filled out the TDEC application portion, but the owner worked with local authorities. Respondent had aerial photos taken which were used by the owner to show the city where the expansion would reach. Respondent superimposed the property boundaries on the photo for the owner.

The third application for expansion was started in 2007, but one of the owners passed away. Respondent finished out the application at the request of the owner's wife. The permit was granted, and the owner's wife sold the property to a waste disposal company. As part of assisting the owner, Respondent helped form an LLC, with himself as one of the owners, to facilitate the sale of the property. Prior to closing, a new survey was conducted which revealed the waterline running along the gravel road used for ingress and egress. The surveyor was made aware of the line through plans provided by the city utility company. The new owners contacted Respondent for a consultation on the possibility of relocating the waterline. The new owners ultimately hired Respondent to continue to assist with the property and permitting until 2015.

Respondent states that survey was the first time they were made aware of the waterline. Respondent states they were never hired to conduct a survey or a title search, which they consider beyond the scope of their services. Later, in 2015, Respondent was made aware that the plans to construct the waterline were produced in September of 2004. That is the same month and year that the city voted to authorize the expansion of the landfill permit.

Accusation 2: The second bracketed portion of the letter states Respondent formerly worked for TDEC prior to going private and Respondent affirmatively represented local authorities approved expansions. Also, Respondent had a financial interest by owning the property through the LLC.

Response to Part 2: Respondent worked for TDEC between 1990 and 1995. Respondent attached newspaper articles and meeting minutes that confirm local approval on the permits in which Respondent was involved.

As to the financial interest, Respondent states the interest was fully disclosed to both the property owner's wife and to the ultimate purchasers of the property. Respondent states the agreement between the original property owners and Respondent had always been that Respondent's services would be reimbursed either when the landfill was utilized or if the property was sold. The LLC formation with option to sell was the mechanism used by Respondent and the owner to compensate Respondent for services. The Respondent's interest is disclosed on closing documents from the sale.

Conclusion from Legal: From Legal Counsel's perspective, the accusations related to non-disclosure of a pecuniary interest are unfounded. Respondent has provided evidence that the interest was disclosed.

As for the waterline, the determination of whether a violation occurred would turn on whether this Board believes an engineer hired on a speculative basis to assist with permit applications should conduct a title search for possible easements. Nothing expressly requires that in the Board's laws and rules. Additionally, TDEC has continued to approve the landfill even with knowledge of the waterline. At this time, the waterline is not harmed by the landfill, and it has been represented that the owner of the property is willing to pay to move it to ease concerns, but the city and citizen groups have blocked that action, since it is the waterline's location that has stopped the additional expansion of the landfill.

History: None

Reviewer: Stephen King

Recommendation: Close.

Board Decision:

REPRESENTATIONS

1) 2017008721 Engineer

Respondent was penalized \$2,500 for placing their stamp on five (5) projects while license expired. Respondent states that the lapse in licensure was due to a misunderstanding regarding fees paid, they thought professional privilege tax covered license renewal. The fees had previously been paid by employer at a different firm, but Respondent recently changed employers and this was the reason for confusion. Respondent asserts that three of the five stamps were on the same project and requests these be consolidated into one act of unlicensed activity. Additionally, one of the pages stamped was not submitted and has been re-sealed post license renewal. Respondent offers to settle the case for \$500.

History: None

Recommendation: Discussion.

Board Decision:

2) 2016049151 Engineer

Previous Legal Report Entry from February 2017:

On September 30, 2016, a complaint was opened against Respondent after staff received an assurance letter from the State Fire Prevention office. The letter noted that Respondent, an engineer, submitted sealed plans that encompassed architectural, fire protection, and structural disciplines. The plans were for a church. The first set of plans sealed by the Respondent were not approved by the Deputy State Fire Marshal, and a list of fifty-six comments were sent by the fire marshal to the Respondent to address. The plans were revised twice after the initial submission before they were approved by the fire marshal. Board member Ricky Bursi was asked to review the plans for competency. Mr. Bursi noted that the original plans were lacking a substantial amount of information. Additionally, the second set of plans was signed by the Respondent, but Respondent signed next to Respondent's seal, not across it, on six pages. Mr. Bursi concluded that an informal conference or interview with the Respondent would be beneficial in determining competency, but in addition, discipline may be warranted for not signing seals properly and due to the negligent state of the first submitted plans.

Respondent responded to the complaint and stated that the project while large in scale was ultimately a simple project. Respondent pointed to Respondent's career of over thirty years and work as a building inspector as grounds for Respondent's competency in all the disciplines stamped. Additionally, Respondent indicated the fire protection drawings were intended to be design concept drawings, and the final design and detail construction drawings would be sealed by a fire protection engineer. The final approved fire protection plans were in fact sealed by a fire protection engineer.

Reviewer: Ricky Bursi

Additional Information Discussed at Meeting: Respondent is elderly and has been in the hospital with severe health problems since the time of the project at issue. At the informal conference with Mr. Bursi, Respondent indicated they wished to return to the practice if able.

History: **1995** – Final Order from Formal Hearing held Respondent not competent to prepare architectural, structural, mechanical, plumbing, and electrical portions of a project. Discipline was a six-month suspension, a \$3,000 civil penalty, and requirement to complete the laws and rules exam. **200600074** – Respondent's license was indefinitely suspended on November 22, 2006, following a two-year failure to pay professional privilege tax. Respondent's license was reinstated after Respondent paid the taxes on February 8, 2007. **2012009171** – Respondent signed a Consent Order for practice outside of his competency, and paid a \$2,000 civil penalty.

Respondent also took the laws and rules exam. **2013002171** – Respondent signed a Consent Order for stamping multiple disciplines outside his competency. Respondent paid a \$4,500 civil penalty and took the laws and rules exam.

Recommendation: Discussion.

Board Decision: Authorization for the voluntary revocation of Respondent’s Engineer License to be settled by Consent Order or Formal Hearing.

NEW INFORMATION:

Respondent contacted legal counsel and indicated Respondent’s health has deteriorated. Respondent indicates they will medically never be able to return to work. Respondent indicated they will give up their license, but requested that this Board, in light of Respondent’s severe health issues, allow Respondent to enter retired status without the option to ever remove it from that status or to renew.

NEW RECOMMENDATION: Discussion. Legal is open to the above option in light of the circumstances; however, Legal reminds the Board such a course of action would not result in recorded discipline for the above-described project.

Board Decision:

Number of Registrants and Firms

Architects		In-State	Out-of-State	Total
	9/28/2016	1521	2276	3797
	11/22/2016	1510	2285	3795
	2/9/2017	1519	2293	3812
	3/29/2017	1535	2331	3866

Engineers				
	9/28/2016	7231	8297	15,528
	11/22/2016	7232	8313	15,545
	2/9/2017	7247	8340	15,587
	3/29/2017	7344	8500	15,844

Landscape Architects				
	9/28/2016	201	182	383
	11/22/2016	204	179	383
	2/9/2017	203	186	389
	3/29/2017	203	193	396

Interior Designers				
	9/28/2016	374	40	414
	11/22/2016	368	40	408
	2/9/2017	370	42	412
	3/29/2017	374	43	417

Totals (Registrants)				
	9/28/2016	9,327	10,795	20,122
	11/22/2016	9,314	10,817	20,131
	2/9/2017	9,339	10,861	20,200
	3/29/2017	9,456	11,067	20,523

Architectural Firms				
	9/28/2016	443	1287	1730
	11/22/2016	444	1311	1755
	2/9/2017	444	1331	1775
	3/29/2017	445	1351	1796

Engineering Firms				
	9/28/2016	955	2915	3870
	11/22/2016	961	2964	3925
	2/9/2017	966	2993	3959
	3/29/2017	966	3034	4000

Landscape Arch Firms				
	9/28/2016	55	108	163
	11/22/2016	56	113	169
	2/9/2017	56	115	171
	3/29/2017	57	115	172

Totals (Firms)				
	9/28/2016	1453	4310	5763
	11/22/2016	1461	4388	5849
	2/9/2017	1466	4439	5905
	3/29/2017	1468	4500	5968

**Board of Architectural and Engineering Examiners
Open Complaints**

	Profession	Complaint #	Received	Allegation	Status	Comments	
1	Architect	201701410	2/23/2017	Unlicensed practice prior to registration.	Open-Legal		
2	Architect	201701428	2/23/2017	Unlicensed practice.	Open-Legal		
3	Engineer	201604915	8/18/2016	Practice outside area(s) of competency; plan stamping.	Open-Legal	Consent order issued	
4	Engineer	201605395	9/12/2016	Practice outside area(s) of competency.	Open-Legal	Formal charges authorized	
5	Engineer	201606888	11/17/2016	Practice outside area(s) of competency; plan stamping.	Open-Legal	Board member review	
6	Engineer	201606933	11/16/2016	Misconduct; fraudulent practice.	Open-Legal	Investigation; Board member review	
7	Engineer	201700872	2/1/2017	Practice on an expired license.	Open-Legal	Consent order issued	
8	Engineer	201701454	2/28/2017	Practice on an expired license.	Open-Staff	Issued letter of caution	
9	Engineer	201701459	3/2/2017	Disciplined in another jurisdiction.	Open-Staff	Issued letter of caution	
10	Engineer	201701563	3/7/2017	Unlicensed practice prior to registration.	Open-Staff	Response requested	
11	Engineer	201701634	3/9/2017	Unlicensed practice prior to registration.	Open-Staff	Response requested	
12	Engineer	201701898	3/17/2017	Unlicensed practice.	Open-Staff	Response requested	
13	Land Arch	201701547	2/22/2017	Practice on an expired license.	Open-Legal		
14	Eng Firm	201701461	3/2/2017	Disciplined in another jurisdiction.	Open-Staff	Issued letter of caution	
15	Int Des	201604906	8/11/2016	Continuing education violation.	Open-Legal	Consent order issued	
	Number over 180 days old without "clock stopping" action: 0 (0%)						
	Number of formal hearings authorized to be heard by ALJ: 0						
	Number of formal hearings authorized to be heard by Board: 1						
	Number in Investigations: 1						
	Percent on time (clock stopped within 180 days) last 18 months: 96.67%						

2017 PENDING LEGISLATION

Bill Number(s)/Sponsor(s)	Description	House	Senate	Board Position
HB0300*/SB1188 Hawk/Norris	Professions and Occupations - As introduced, revises various professional regulatory provisions. Amends T.C.A. § 62-2-401(a)(1) to replace language stating that applicants for engineer registration must be certified as an engineer intern with language stating that applicants must have passed the FE exam.	Finance, Ways & Means Subcommittee (4/5/17)	Passed	
HB0597/SB0329* Williams/Kelsey	Professions and Occupations - As introduced, specifies that a person who holds a master's degree in engineering from an approved institution, has a record of at least four years of progressive experience on certain engineering projects, and has obtained certification as an engineer intern must be registered as an engineer upon passage of an examination. - Amends T.C.A. § 62-2-401.	Recommend passage with amendment increasing experience requirement to 20 years; Business and Utilities Committee (4/5/17)	Recommend passage with amendment increasing experience requirement to 20 years; on Senate Regular Calendar for 4/6/17	Oppose as introduced. <i>Amended bill attached.</i>
HB0340/SB0040* Hulsey/Southerland	Public Contracts - As introduced, entitles a construction design professional to compensation for additional services provided to certain state agencies that are not included in a basic services agreement; provides for the adjudication of disputes between construction design professionals and state agencies by an administrative law judge. Includes Title 62 in the caption.	State Government Subcommittee — <u>taken off notice</u>	State and Local Government Committee	
HB0326*/SB1217 Hawk/Norris	Administrative Procedure (UAPA) - As introduced, authorizes commissioners and chief executive officers of administrative departments under which regulatory boards operate to review and either approve or veto rules and actions that may constitute unreasonable restraints of trade.	Recommend passage with amendment; Calendar & Rules Comm.	Passed as amended	Voted to express concern. <i>Amended bill attached.</i>

HB0775*/SB1083 Powell/Lundberg	Fees - As introduced, creates the fee reduction and elimination examination task force to conduct a comprehensive study of the continued need for regulatory fees in this state. Includes Title 62 in the caption.	Deferred to summer study	General Subcommittee of Government Operations Committee	
HB0025/SB0015* Daniel/Green	Taxes, Privilege - As introduced, phases out the professional privilege tax over a four-year period, by reducing the amount of the tax by \$100 each year, for tax years that begin on and after June 1, 2017.	Finance, Ways & Means Subcommittee; placed behind budget	Negative recommend; FW&M Committee	
HB0013*/SB0364 Reedy/Roberts	Taxes, Privilege - As introduced, phases out the professional privilege tax over a four-year period, by reducing the amount of the tax by \$100 each year, for tax years that begin on and after June 1, 2017.	Finance, Ways & Means Subcommittee	General Subcommittee of FW&M Revenue Subcommittee	
HB0041*/SB0132 VanHuss/Bowling	Taxes, Privilege - As introduced, phases out the professional privilege tax over a five-year period, by reducing the amount of the tax by \$80 each year, for tax years that begin on and after June 1, 2017.	Finance, Ways & Means Subcommittee; placed behind budget	Favorable recommend; FW&M Committee	
HB0046*/SB0306 Clemmons/Kyle	Taxes, Privilege - As introduced, exempts individuals from the professional privilege tax for the first year in which they are licensed or registered in a taxable profession.	Finance, Ways & Means Subcommittee; placed behind the budget	Negative recommend; FW&M Committee	
HB1034/SB0205* VanHuss/Bowling	Taxes, Privilege - As introduced, eliminates the professional privilege tax for the tax year ending on May 31, 2018, and subsequent tax years.	Finance, Ways & Means Subcommittee; placed behind budget	Neutral recommend; FW&M Committee	
HB0060*/SB0546 Rogers/Ketron	Taxes, Privilege - As introduced, allows a person engaged in an occupation subject to the occupational privilege tax who is or is older than the age for full social security benefits and who earns no more than \$16,000 per year from the taxable occupation to receive a 75% rebate on that person's privilege tax.	Finance, Ways & Means Subcommittee; placed behind the budget	Neutral recommend; FW&M Committee	

HB1408/SB1061* Weaver/Lundberg	Highways, Roads and Bridges - As introduced, removes the exemption from the competitive bidding requirement for design and consultant contracts entered into by the department of transportation. Includes Title 12 in the caption.	Transportation Subcommittee	Transportation and Safety Committee General Subcommittee	Oppose as introduced.
HB1391*/SB1313 Jernigan/Yarbro	Economic and Community Development, Dept. of - As introduced, establishes the office of apprenticeship and work-study programs within the department; provides a tax credit to entities that participate in the programs; and reinstates certain apprenticeship programs for certain professional boards and commissions. Includes Title 62 in the caption.	State Government Subcommittee (4/5/17)	Commerce and Labor Committee (4/4/17)	
HB0566/SB0449* Howell/Bell	Professions and Occupations - As introduced, requires state governmental entities that establish or adopt guides to practice to do so through the promulgation of rules; guides to practice include codes of ethics, voluntary certification programs, and other measures required to ensure minimum quality of service. Includes Title 62 in the caption.	Recommend for passage if amended; Government Operations Committee (4/5/17)	Passed as amended	<i>Amended bill attached.</i>

Section 7, Item 35 of the appropriations bill (HB0511/SB0483) earmarks \$350,000 for the Board's grants program.

Amendment No. 1 to SB0329

Johnson
Signature of Sponsor

AMEND Senate Bill No. 329*

House Bill No. 597

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-2-401(a), is amended by adding the following as a new subdivision:

() **Master's Degree from Approved Institution.** A person who holds a master's degree in engineering from an institution with an ABET accredited engineering program approved by the board as being of satisfactory standing, and with a specific record of twenty (20) years or more of progressive experience on engineering projects of a grade and character that indicates to the board that the applicant is competent to practice engineering and who has passed the Fundamentals of Engineering Examination administered by the National Council of Examiners for Engineering and Surveying (NCEES) shall be admitted to an examination prepared by the NCEES, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of registration to practice engineering in this state if the applicant is otherwise qualified.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it, and is repealed on June 30, 2019, provided that any applicant satisfying the qualifications established pursuant to this act and who is registered as an engineer shall maintain such registration.

Senate Government Operations Committee 2

Amendment No. 2 to SB1217

**Bell
Signature of Sponsor**

AMEND Senate Bill No. 1217

House Bill No. 326*

by adding the following language immediately preceding the enacting clause:

WHEREAS, in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015), the Supreme Court of the United States held that members of state regulatory boards comprised of a controlling number of active market participants may be subject to liability under federal antitrust law unless they are acting pursuant to clearly articulated state policy or law and are actively supervised by the state; and

WHEREAS, in accordance with this Supreme Court decision, this bill gives a designated state official authority to review regulatory board actions that may constitute a potentially unreasonable restraint of trade for the sole purpose of determining whether the action is consistent with a clearly articulated state policy or law established by the General Assembly with respect to the board; and

WHEREAS, this bill provides for legislative notification and oversight in the event that a state official vetoes a board action; now, therefore,

AND FURTHER AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 4, is amended by adding the following language as a new section:

4-4-126.

(a) As used in this section:

(1) "Regulatory board" means any state board, commission, council, committee, or similar entity or body established by statute or rule that issues any license, certificate, registration, certification, permit, or other similar document for

Amendment No. 2 to SB1217

Bell
Signature of Sponsor

AMEND Senate Bill No. 1217

House Bill No. 326*

an occupation, profession, business, or trade in this state or otherwise regulates or controls any occupation, profession, business, or trade in this state.

"Regulatory board" does not mean any board created by § 23-1-101, § 17-5-201, or the rules of the supreme court; and

(2) "Supervising official" means the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or the commissioner's or officer's designee.

(b) Each supervising official shall ensure that the actions of regulatory boards that displace competition are consistent with a clearly articulated state policy. With respect to any action, other than rulemaking, taken by a regulatory board the supervising official shall:

(1) Evaluate whether the action may constitute a potentially unreasonable restraint of trade that requires further review; and

(2) If it is determined that an action requires further review pursuant to subdivision (b)(1):

(A) Provide notice to the regulatory board within ten (10) business days of the date the action was taken that the action is subject to further review;

(B) Review the full evidentiary record regarding the action and, if necessary, supplement the evidentiary record or direct the regulatory board or other involved persons or entities to supplement the evidentiary record;

(C) Conduct a review of the substance of the action, de novo and on the merits, for the sole purpose of determining whether the action is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board; and

(D) In writing:

(i) Approve the action if the supervising official determines that it is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board;

(ii) Remand the action to the regulatory board for additional information, further proceedings, or modification, as is necessary to ensure that the action is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board; or

(iii) Veto the action if the supervising official determines that it is not consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board.

(c) The supervising official may not:

(1) Be licensed by, or participate in or have a financial interest in an occupation, profession, business, or trade regulated by or otherwise affected or potentially affected by, the regulatory board whose action is subject to review under this section; or

(2) Be a voting or ex officio member of the regulatory board whose action is subject to review under this section.

(d) The supervising official's duties established pursuant to this section shall be carried out in a reasonably prompt manner and in accordance with any time limitations set forth in this section.

(e) If, within ten (10) business days of the date an action is taken, the supervising official provides notice to the chair of the regulatory board that the action is subject to further review pursuant to subdivision (b)(2), the action shall take effect upon the supervising official's approval but shall not take effect if the supervising official vetoes or remands the action.

(f) The supervising official's approval, remand, or veto of a regulatory board's action pursuant to subdivision (b)(2)(D) must include written justification for the decision and shall constitute the regulatory board's action with respect to that matter.

(g) A regulatory board shall provide to the supervising official adequate notice of its meetings.

(h) The supervising official must provide written notice to the chairs of the government operations committees of the senate and house of representatives of any veto of an action pursuant to this section within three (3) business days of the date of the veto. The government operations committees of the senate and house of representatives are authorized to conduct a hearing regarding the vetoed action at a subsequent, regularly scheduled meeting and may request the supervising official and a regulatory board representative to appear at the hearing. The government operations committees may meet jointly or separately. Nothing contained in this section shall be construed to authorize the government operations committees to delay or overturn the supervising official's veto, nor shall it limit the authority of the government operations committees to recommend legislation to the general assembly regarding the subject matter of a hearing conducted pursuant to this subsection.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following language as a new, appropriately designated section:

4-5-230.

Prior to a rule being filed by a regulatory board, as defined in § 4-4-126(a), with the secretary of state pursuant to § 4-5-207 or § 4-5-208, the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or a designee to the extent a conflict of interest may exist with respect to the commissioner or chief executive officer, will remand a rule that may constitute a potentially unreasonable restraint of trade to the regulatory board for additional information, further proceedings, or modification, if the rule is not consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB0449

Bell
Signature of Sponsor

AMEND Senate Bill No. 449*

House Bill No. 566

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following as a new section:

(a)

(1) All entities listed in chapter 29, part 2 of this title that establish or adopt guides to practice or that regulate professions that establish or adopt guides to practice shall promulgate rules specifying all provisions included in and relating to the guides to practice.

(2) No entity subject to this section shall adopt guides to practice developed or approved by any private organization or association that are not adopted in accordance with this chapter. Any changes to guides to practice made by a private organization or association after the guides to practice are adopted shall be effective only after the changes are also adopted in accordance with this chapter.

(3) This subsection (a) only applies to guides to practice:

(A) Established, adopted, or amended after the effective date of this act; and

(B) That must be complied with in order to maintain a person's license, certification, or registration in order to practice a profession.

(b) The rules promulgated by entities pursuant to subsection (a) shall:

Senate Government Operations Committee 1

Amendment No. 1 to SB0449

Bell
Signature of Sponsor

AMEND Senate Bill No. 449*

House Bill No. 566

(1) Supersede any existing guides to practice developed or approved by a private organization or association that conflict with or are otherwise not included in such rules; and

(2) Be promulgated in accordance with this chapter.

(c) As used in this section, "guides to practice" includes codes of ethics and other measures that establish service quality standards. "Guides to practice" does not include:

(A) Tests or examinations;

(B) Building codes;

(C) Safety codes; or

(D) Drug standards.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Action Items (April 2017)

John Cothron

- Contact continuing education provider for more information on the qualifications of an instructor (Ron Finger)—for the Engineer Committee.
- Invite a representative of the Association of Energy Engineers (AEE) to attend an Engineer Committee meeting to discuss the certifications they offer.
- Route revised *Reference Manual* to proper authorities for review.

Legal Counsel

- Draft proposed rule changes, adding the elimination of the engineer intern application fee and clarifications to offering to practice to Rule 0120-01-.03.
- Review the different procurement models for state projects as presented by State Architect Peter Heimbach and how they relate to qualifications-based selection of design professionals.

Ricky Bursi

- Write a newsletter article regarding the experience requirements for engineer registration.

Robert Campbell

- Draft revisions to the Engineer Committee policy regarding fulfillment of humanities/social sciences (general education) deficiencies for consideration at the next committee meeting in April 2017.

Law and Rules/Policies Committee

- Meet prior to the Board meeting in April to discuss proposed rule changes.

Continuing Education Committee

- Discuss proposed changes to the continuing education rules, including a proposal to allow or require all professions to report continuing education hours on a calendar year basis and to eliminate carryover hours.

2018 Legislative Proposal: Eliminate the experience duration requirement in the law (T.C.A. § 62-2-501) for architect exam applicants, and require simply completion of the Intern Development Program (IDP)/Architectural Experience Program (AXP) for these applicants.

October Agenda Topics

- Discuss definitions of practice and incidental practice provisions.



STATE OF TENNESSEE
 DEPARTMENT OF COMMERCE AND INSURANCE
 BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
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**FREQUENTLY ASKED QUESTIONS ABOUT QUALIFICATIONS-BASED
 SELECTION FOR PUBLIC PROJECTS AS DEFINED BY T.C.A. § 12-4-107(a)**

The responses below reflect the Board of Architectural and Engineering Examiners' interpretation of T.C.A. § 12-4-107, as necessary to enforce Rule 0120-02-.02(6), and were adopted on June 12, 2014, and revised and adopted on October 10, 2014, June 4, 2015, and August 12, 2015. The responses below should not be viewed as comprehensive, and registrants are urged to contact the Board office for questions that are not addressed in this document. This document is not intended to create any substantive or procedural rights, enforceable by any party in administrative and judicial litigation with the State of Tennessee. The Tennessee Board of Architectural and Engineering Examiners reserves the right to act at variance with these FAQs and to review any case or complaint before it on the specific facts of that matter.

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1. To what projects does T.C.A. § 12-4-107(a) apply?

T.C.A. § 12-4-107 applies to all contracts for architectural, engineering and construction services procured by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute. ~~Some communications from the Board refer to "public works projects," which should not be understood in the narrow sense of projects typically associated with public works departments. The term "public works" is used in the general sense of any project paid for by government funds for public use. The statute does not actually use the term "public works."~~

2. What has changed? Is the Board of Architectural and Engineering Examiners imposing a new requirement?

The requirement to select design professionals for public projects through qualifications-based selection is not a new requirement. This requirement has been in the law for many years, and the Board of Architectural and Engineering Examiners is not imposing any additional requirements on the state or local jurisdictions. The only change is that, effective March 11, 2013, the Board may now discipline registered architects, engineers, and landscape architects for failing to comply with ~~T.C.A. § 12-4-107(a)~~ and Rule 0120-02-.02(6).

3. Does T.C.A. § 12-4-107(a) encompass studies and other services that do not involve the preparation of sealed plans?

Any study or service that requires professional architectural, engineering, or landscape architectural services and expertise that requires the seal of a registrant, or if these professional services are offered by the proposer, would fall under the scope of the statute.

4. Does T.C.A. § 12-4-107(a) apply to public school systems and public building authorities?

Yes. T.C.A. § 12-4-107 applies to all contracts for professional services by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute.

5. Does T.C.A. § 12-4-107(a) apply to non-profit organizations that receive public funds, such as charter schools?

No. T.C.A. § 12-4-107 applies only to contracts for professional services by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute. It does not apply to private non-profit organizations, regardless of the source of funding. However, although T.C.A. § 12-4-107(a) does not require qualifications-based selection in these instances, the conditions of the source of funding, such as a governmental grant, may still require qualifications-based selection.

6. Does T.C.A. § 12-4-107(a) apply to landscape architectural services?

~~Yes. Although the statute does not specifically reference landscape architectural services, it may be safely assumed that such services are included due to the overlap among the architectural, engineering, and landscape architectural professions, and the fact that similar qualifications and standards apply to all three design professions. Additionally, Rule 0120-02-.02(6) does reference landscape architectural services. The statute does not directly address landscape architectural services; however, it appears that such services might constitute "construction services" due to the overlap among the architectural, engineering, and landscape architectural professions, and the fact that similar qualifications and standards apply to all three design professions. Additionally, Rule 0120-02-.02(6) does reference landscape architectural services.~~

7. Does T.C.A. § 12-4-107(a) apply to interior design services?

No. The statute does not reference interior design services, and the Board of Architectural and Engineering Examiners does not regulate the practice of interior design—only use of the title “registered interior designer.”

8. Is it permissible for a registrant to provide a description of intended compensation (i.e., whether you charge a fixed fee, percentage, etc.) in response to a RFQ/RFP for a public project?

~~Yes, provided that a specific monetary amount or percentage is not included in the response. Generally, the Board takes the position that providing only a description of the method of compensation without providing specific monetary amount or percentage would not allow an entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services in violation of Rule 0120-02-.02(6); however, each individual situation would depend on the specific facts.~~

9. Is it permissible for a registrant to submit hourly rates and an estimate of man-hours required to complete a design project in response to a RFQ/RFP for a public project?

~~No. T.C.A. § 12-4-107(a) and Rule 0120-02-.02(6) preclude a registrant from submitting any information that could be used to determine compensation in response to a RFQ/RFP for a public project. Generally, the Board takes the position that providing hourly rates and an estimate of man-hours required to complete a design project in response to a RFQ/RFP for a public project would~~

allow an entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services in violation of Rule 0120-02-.02(6).

10. Is it permissible for a registrant to submit a price in a sealed envelope in response to a RFQ/RFP for a public project?

~~No. Registrants may only state compensation to a prospective client in direct negotiation following selection based on qualifications. To the extent that providing the information, even in a sealed envelope, would enable a governmental entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant, providing such information may be in violation of Rule 0120-02-.02(6).~~

11. Does the following procedure comply with T.C.A. § 12-4-107 and Rule 0120-02-.02(6)?

A jurisdiction requests responses to a RFQ. Responses are evaluated to prequalify firms for participation in the RFP process. Prequalified proposers then submit formal proposals (RFPs)—including fees— for consideration and final selection.

No. The prequalification procedure outlined above would not comply. In accordance with T.C.A. § 12-4-107(a), once the public body (client) has selected the most qualified design professional/firm, it may request a fee proposal from that firm. The agency may then negotiate a satisfactory contract with the selected firm. If an agreement cannot be reached and the negotiations are formally terminated, the agency may then proceed to select the next most qualified design professional/firm on the list and continue negotiations until an agreement is reached. However, a procedure in which the agency wishes to contract with as many qualified respondents as possible, multiple firms are selected, and a contract is negotiated with each firm separately following selection based on qualifications would be in compliance.

12. What alternate methods are available for determining possible architectural, engineering, or landscape architectural costs?

- a. Enlist the aid of a professional or agency such as a Development District in determining the scope of the project for a RFQ. This should allow a realistic budget for the entire project, including construction, so that price surprises are minimized.

- b. State the budget range for professional services in the RFQ. The budgeted amount allows the design professional to determine if they can meet the stated requirements within the budget range and minimizes review time for the municipality.
- c. Use standard cost basis schedules such as used by the State Building Commission or Rural Development to determine expected design costs. These schedules have been used for many years by both governments and design professionals to establish reasonable compensation for projects of various sizes.

13. Is it unethical for one firm/registrant to sit in on a proposal interview for another firm/registrant (a competitor)? Would this be a violation of the Rules of Professional Conduct?

~~Although such conduct is unprofessional, it does not violate the Rules of Professional Conduct. No, this does not violate the Rules of Professional Conduct; however, the Board would respectfully discourage such action.~~

14. Does Rule 0120-02-.02(6) apply only to individual design professionals, or does it also apply to corporations, partnerships, and firms?

The rule applies to both individual design professionals and corporations, partnerships, and firms registered in the State of Tennessee (see Rule 0120-02-.01 Applicability).

15. What disciplinary action may result from a violation of Rule 0120-02-.02(6)?

Formal discipline could range from a civil penalty (\$~~5~~400-\$1,000 per violation) to suspension or even revocation, depending on the nature of the violation. for repeated, grave offenses.—The Board considers mitigating and aggravating factors when determining discipline.

16. Can price be considered when selecting a design professional for a public project?

The law does not prevent jurisdictions from negotiating price on projects requiring professional services. Upon selecting the most qualified design professional, the jurisdiction may then negotiate compensation with the registrant/firm. If the contracting agency and most highly qualified firm are unable to negotiate a fair and reasonable contract, the agency may formally terminate negotiations and

undertake negotiations with the next most qualified firm, continuing the process until an agreement is reached. The initial selection, however, must be based upon qualifications.

17. Does T.C.A. § 12-4-107(a) and Rule 0120-02-.02(6) apply to transportation planning services for Metropolitan Planning Organizations?

See response to question #3.

18. Does T.C.A. § 12-4-107(a) and Rule 0120-02-.02(6) apply to subconsultants who do not contract directly with a government agency?

No, based on the Board's ~~current interpretation of understanding of~~ the statute. T.C.A. § 12-4-107(a) applies only to contracts between a state or local government agency and an architect/engineer/landscape architect. If a registrant is not entering into a contract with a governmental entity, then they may include a fee in their proposal for a public project. However, in keeping with the spirit of the law, the Board urges registrants to select subconsultants on the basis of their qualifications.

19. What is an appropriate way for a registrant to respond to a request for a price?

~~If a registrant becomes aware of a state or local agency that is requesting a fee in a proposal for a public project, this should be brought to the attention of the Board office. In such cases, Board staff will send a letter to the agency issuing the RFP asking them to eliminate fees from their request. The Board has no jurisdiction over state and local government agencies, but, in most cases, the issuing agency will voluntarily remove the requirement to submit fees and reissue the request. Registrants may wish to provide information on Tenn. Code Ann. § 12-4-107(a) and Rule 0120-02-.02(6) to prospective clients so they will understand why submittals for public projects are non-responsive on the issue of fees. These FAQs and a QBS notice are available on the Board's website for distribution to state and local government agencies. State professional societies may also offer assistance in educating government agencies regarding qualifications-based selection.~~

20. May an individual registered in other jurisdictions and not registered with the Tennessee Board offer or perform architectural, engineering, or landscape architectural services to the public in Tennessee or to a design competition in Tennessee if they are not either acting as consulting

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associates in accordance with T.C.A. § 62-2-103(2) or working under the responsible charge of a Tennessee registrant?

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19. (Answer provided based on the recent elimination of the design competition policy and adoption of changes to Rule 0120-01-.03). Rule 0120-01-.03(2) of the Board states that proposals may not be submitted, contracts may not be signed, or work may not be commenced until the architect, engineer, or landscape architect becomes registered in Tennessee. Therefore, an individual registered in other jurisdictions and not registered with the Tennessee Board must first register with the Tennessee Board before submitting any proposals, signing any contracts, or commencing any work to the public or to a design competition, unless they are either acting as consulting associates in accordance with T.C.A. § 62-2-103(2) or working under the responsible charge of a Tennessee registrant. However, architects, engineers, or landscape architects registered in other jurisdictions, but not in Tennessee, may respond to letters of inquiry from prospective clients or regarding requests for proposals or requests for qualifications, provided there is written disclosure that the architect, engineer, or landscape architect is not registered in Tennessee and the response is limited to inquiries regarding scope of project and to demonstrate interest.

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21. May a registrant submit historical data or hourly rates to an agency soliciting bids or qualifications prior to selection in response to a bid letting for architectural, engineering, and construction services controlled by T.C.A. § 12-4-107(a)?

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20. Rule 0120-02-.02(6) of the Board states that, in a bid letting controlled by T.C.A. § 12-4-107(a), "[a] registrant may not submit any information as part of a proposal for a public project to the state or any of its political subdivisions that would enable the governmental entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services required, thereby precluding participation in any system requiring a comparison of compensation." Each complaint is reviewed on its individual merits; however, depending on the individual facts of a case, to the extent that providing historical data or hourly rates "enable the governmental entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services required", providing such information may be in violation of the rule and, as such, may result in disciplinary action against the registrant. Historical data which does not enable the evaluation on a basis other than competency or qualifications would not be prohibited.

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~~If a registrant becomes aware of a state or local agency that is requesting a fee in a proposal for a public project, this should be brought to the attention of the Board office. In such cases, Board staff will send a letter to the agency issuing the RFP asking them to eliminate fees from their request. The Board has no jurisdiction over state and local government agencies, but, in most cases, the issuing agency will voluntarily remove the requirement to submit fees and reissue the request. Registrants may wish to provide information on Tenn. Code Ann. § 12-4-107(a) and Rule 0120-02-.02(6) to prospective clients so they will understand why submittals for public projects are non-responsive on the issue of fees. State professional societies may also offer assistance in educating government agencies regarding qualifications-based selection.~~

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~~The above responses reflect the Board of Architectural and Engineering Examiners' interpretation of T.C.A. § 12-4-107, as necessary to enforce Rule 0120-02-.02(6), and were adopted on June 12, 2014, and revised and adopted on October 10, 2014, June 4, 2015, and August 12, 2015. The above responses should not be viewed as comprehensive, and registrants are urged to contact the Board office for questions that are not addressed in this document.~~

REPORT ON 2017 NCARB REGIONAL SUMMIT JERSEY CITY, NJ

Tennessee A&E Board Attendees: Rick Thompson, Brian Tibbs, Frank Wagster (Board Members) and John Cothron (Executive Director)

The following issues were discussed at the NCARB Regional Summit on March 9-11, 2017:

- Member Board Executive (MBE) Workshop:
 - Maria Brown (OR) was nominated to serve as the Member Board Executive on the NCARB Board of Directors.
 - MBEs were provided with an operational view into the new Integrated Path to Architectural License (IPAL) and Architectural Experience Program (AXP) Portfolio programs.
 - MBEs shared best practices and discussed a variety of issues in breakout sessions, including the importance of regulation, legislative challenges to licensure, licensing systems, and board member training.
 - The workshop ended with an exercise to develop a job description for board members.

- Draft Resolution:
 - Resolution 2017-A—Amends the NCARB *Bylaws* to change the process for adding, removing, and reinstating member boards. The resolution proposes three stages of progressive discipline for non-payment of dues to the Council or the Region: (1) suspension of membership, (2) suspension of services, (3) removal of membership. At the Region 3 (Southern Conference) meeting, a majority of boards supported amending the *Bylaws* to allow the Board of Directors to adopt a policy addressing this issue, instead of placing this language in the *Bylaws*. The Arizona Board requested a modification to make membership in regions voluntary instead of mandatory, and several states were concerned about the possible impact it could have on licensure candidates. One region unanimously agreed that the resolution is not necessary. The Board of Directors will consider the feedback in their future discussions.

- Plenary Session: During the Town Hall meeting, several states expressed concern about the “Adroit School” and the “American Board of Architecture,” which are attempting to set up an alternative education and licensure process for architects.

- Regional Meeting:
 - Several jurisdictions noted that use of the term “interior architecture” by interior design programs continues to be a problem.
 - States reported on efforts in their jurisdictions to address antitrust concerns resulting from the *FTC v. North Carolina Board of Dental Examiners* decision. The legal counsel for the NC Board provided an overview of this case.
 - Work has begun planning the 2018 Educators’ Conference.

The Annual Meeting is scheduled for June 22-24, 2017, in Boston, MA.