

Senate Bill No. 1914

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 23, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

Corrected 8-30-04



CHAPTER _____

An act to amend Sections 5651, 5657, 5659, 7011.4, 7028.1, 7048, 7068, 7071.9, 7071.11, 7083, 7085, 7090.1, 7121, 7137, 7804, 7806, 7830, 7833, 7835, 7835.1, 7837, 7845, 7852, 7860, 8024.1, 8027, 8764, and 22575 of, to add Section 7843 to, and to repeal Sections 7019.5, 7021, and 7124.5 of, the Business and Professions Code, to amend Sections 9148.8 and 11521 of the Government Code, to amend Sections 25159.12 and 25208.2 of the Health and Safety Code, to amend Section 662 of the Public Resources Code, and to amend Section 13273 of the Water Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1914, Committee on Business and Professions. Contractors: landscape architects: court reporters: geologists.

(1) Existing law provides for the regulation and licensure of landscape architects by the California Architects Board. Existing law requires a licensed landscape architect to notify the executive officer of the board of any change of address of his or her place of business. Failure to notify the executive officer of the board results in a penalty that is paid to the board and deposited into the California Architects Board-Landscape Fund, which is a continuously appropriated fund.

This bill would instead require a licensed landscape architect to file his or her current mailing address with the board and to notify the board of any and all changes in mailing address, providing both his or her old and new address within 30 days after a change.

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors.

Existing law requires the board to conduct certain studies and reviews. Existing law requires an unlicensed person engaging in a project under \$500 to give notice to the consumer regarding his or her nonlicensee status. Existing law prohibits an applicant for licensure convicted of certain acts from applying for licensure for a one-year period following the conviction. Existing law allows a



30-day grace period for a delinquency fee, with regards to delinquent application for a license. Existing law requires a copy of a complaint in a civil action against a contractor's bond to be served on the register of the clerk of court, who must maintain a record. Existing law prohibits the board from making public disclosure of complaints against a licensee, except as specified.

This bill would delete these provisions and requirements.

Existing law requires a qualifying individual to file a bond in the amount of \$7,500.

This bill would, on and after January 1, 2007, require the bond amount to be \$12,500. The bill would also establish the aggregate surety on claims brought against the bond at an amount of \$7,500.

Existing law provides for a contractor's licensure examination, and exempts certain persons from the examination. Existing law requires contractors changing certain information, including business name or address, to notify the registrar within 90 days of the change. Existing law makes employment of certain person who have been denied a license or had action taken against their license, or the license of an entity that they were associated with, grounds for disciplinary action.

This bill would revise the conditions for exemption from licensure. The bill would require notice of a change in information to be given on a form prescribed by the registrar. The bill would exempt employment as a bona fide employee from the disciplinary action provisions related to employing persons who have been denied or had action taken against their license or the license of an entity they were associated with.

(3) Existing law provides for the certification and regulation of shorthand reporters by the Court Reporters Board of California in the Department of Consumer Affairs. Existing law requires the payment of an initial certification fee prior to certification. Existing law also requires a certificate holder applying for renewal to meet requirements that include notifying the board if he or she has been convicted of a misdemeanor substantially related to the functions and duties of a court reporter.

This bill would authorize the board to issue an interim permit of specified duration to a candidate eligible for certification, prior to receipt of the initial certification fee. The bill would also require a certificate holder applying for renewal to notify the board if he or she has been convicted of any misdemeanor.



(4) Existing law, the Geologist and Geophysicist Act, creates the Board for Geologists and Geophysicists and makes it responsible for the registration and regulation of persons practicing as a geologist or geophysicist. A geologist registered under the act is referred to as a “registered geologist.”

This bill would change the title designation “registered geologist” to “professional geologist” and would also authorize the board to register a person meeting specified requirements as a geologist-in-training.

The people of the State of California do enact as follows:

SECTION 1. Section 5651 of the Business and Professions Code is amended to read:

5651. (a) The board shall by means of examination, ascertain the professional qualifications of all applicants for licenses to practice landscape architecture in this state and shall issue a license to every person whom it finds to be qualified on payment of the initial license fee prescribed by this chapter.

(b) The examination shall consist of a written examination. The written examination may be waived by the board if the applicant (1) is currently licensed by a United States jurisdiction, Canadian province, or Puerto Rico and has passed a written examination equivalent to that which is required in California at the time of application and (2) has passed the California supplemental examination if, at the time of application, it is required of all California applicants.

SEC. 2. Section 5657 of the Business and Professions Code is amended to read:

5657. Each licensee shall file his or her current mailing address with the board at its office in Sacramento, California, and shall notify the board of any and all changes of mailing address, providing both his or her old and new address within 30 days after a change. A penalty as provided in this chapter shall be paid by a licensee who fails to notify the board within 30 days after a change of address.

SEC. 3. Section 5659 of the Business and Professions Code is amended to read:

5659. Each person licensed under this chapter shall sign, date, and seal or stamp using a seal or stamp described in this section,



all plans, specifications, and other instruments of service therefor, prepared for others as evidence of the person's responsibility for those documents. Failure to comply with this section constitutes a ground for disciplinary action. Each person licensed under this chapter shall use a seal or stamp of the design authorized by the board, bearing his or her name, license number, the legend "licensed landscape architect," the legend "State of California" and a means of providing a signature, the renewal date of the license, and date of signing and sealing or stamping.

SEC. 4. Section 7011.4 of the Business and Professions Code is amended to read:

7011.4. (a) Notwithstanding Section 7011, there is in the Contractors' State License Board, a separate enforcement unit which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity.

(b) Persons employed as enforcement representatives in this unit and designated by the Director of Consumer Affairs are not peace officers and are not entitled to safety member retirement benefits. They do not have the power of arrest. However, they may issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

SEC. 5. Section 7019.5 of the Business and Professions Code is repealed.

SEC. 6. Section 7021 of the Business and Professions Code is repealed.

SEC. 7. Section 7028.1 of the Business and Professions Code is amended to read:

7028.1. It is a misdemeanor for any contractor, whether licensed or unlicensed, to perform or engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or to perform or engage in a removal or remedial action, as defined in subdivision (d) of Section 7058.7, or, unless otherwise exempted by this chapter, to bid for the installation or removal of, or to install or remove, an underground storage tank, without certification pursuant to Section 7058.7. A contractor in violation of this section is subject to one of the following penalties:

(a) Conviction of a first offense is punishable by a fine of not less than one thousand dollars (\$1,000) or more than three



thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense requires a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment, and a mandatory action to suspend or revoke any contractor's license.

SEC. 8. Section 7048 of the Business and Professions Code is amended to read:

7048. This chapter does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than five hundred dollars (\$500), that work or operations being considered of casual, minor, or inconsequential nature.

This exemption does not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than five hundred dollars (\$500) for the purpose of evasion of this chapter or otherwise.

This exemption does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor or that he or she is qualified to engage in the business of a contractor.

SEC. 9. Section 7068 of the Business and Professions Code is amended to read:

7068. (a) The board shall require an applicant to show such degree of knowledge and experience in the classification applied for, and such general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to his or her experience and knowledge in one of the following ways:

(1) If an individual, he or she shall qualify by personal appearance or by the appearance of his or her responsible managing employee who is qualified for the same license classification as the classification being applied for.

(2) If a copartnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a



responsible managing employee who is qualified for the same license classification as the classification being applied for.

(3) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or responsible managing employee who is qualified for the same license classification as the classification being applied for.

(c) A responsible managing employee for the purpose of this chapter shall mean an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that responsible managing employee is the qualifying person in behalf of the applicant.

(d) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show his or her general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(e) Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) shall hold any other active contractor's license while acting in the capacity of a qualifying individual pursuant to this section.

(f) At the time of application for renewal of a license, the responsible managing individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying his or her capacity as a responsible managing individual to the licensee.

(g) Statements made by or on behalf of an applicant as to the applicant's experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity.

(h) The registrar shall review experience gained by applicants from other states to determine whether all of that experience was gained in a lawful manner in that state.

SEC. 10. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is not either the proprietor, a general partner, or joint licensee, he or she shall file or have on file a



qualifying individual's bond as provided in Section 7071.10 in the sum of seven thousand five hundred dollars (\$7,500). This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license. However, on and after January 1, 2007, the sum of the bond that a qualifying individual is required to have on file shall be twelve thousand five hundred dollars (\$12,500).

(b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However, nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.

SEC. 11. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars (\$4,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims. Any action, other than an action to recover wages or fringe benefits, against a contractor's bond or a bond of a qualifying individual filed by an active licensee shall be brought within two years after the expiration of the license



period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover wages or fringe benefits, against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the wage or fringe benefit contributions were due.

(b) Whenever the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, provide notice to the registrar. The notice required by this subdivision shall provide the following information by declaration on a form prescribed by the registrar:

- (1) The name and license number of the contractor.
- (2) The surety bond number.
- (3) The amount of payment.
- (4) The statutory basis upon which the claim is made.
- (5) The names of the person or persons to whom payments have been made.
- (6) Whether or not the payments were the result of a good faith action by the surety.

The notice shall also clearly indicate whether or not the licensee filed a protest in accordance with this section.

(c) Prior to the settlement of a claim through a good faith payment by the surety, a licensee shall have not less than 15 days in which to provide a written protest. This protest shall instruct the surety not to make payment from the bond on the licensee's account upon the specific grounds that the claim is opposed by the licensee, and provide the surety a specific and reasonable basis for the licensee's opposition to payment.



(1) Whenever a licensee files a protest in accordance with this subdivision, the board shall investigate the matter and file disciplinary action as set forth under this chapter if there is evidence that the surety has sustained a loss as the result of a good faith payment made for the purpose of mitigating any damages incurred by any person or entity covered under Section 7071.5.

(2) Any licensee that fails to file a protest as specified in this subdivision shall have 90 days from the date of notification by the board to submit proof of payment of the actual amount owed to the surety and, if applicable, proof of payment of any judgment or admitted claim in excess of the amount of the bond or, by operation of law, the license shall be suspended at the end of the 90 days. A license suspension pursuant to this subdivision shall be disclosed indefinitely as a failure to settle outstanding final liabilities in violation of this chapter. The disclosure specified by this subdivision shall also be applicable to all licenses covered by the provisions of subdivision (d).

(d) No license may be renewed, reissued, or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied. Further, no license may be renewed, reissued, or reinstated while any surety remains unreimbursed for any loss or expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to suspension or disciplinary action under this section.

(e) The licensee may provide the board with a notarized copy of an accord, reached with the surety to satisfy the debt in lieu of full payment. By operation of law, failure to abide by the accord shall result in the automatic suspension of any license to which this section applies. A license that is suspended for failure to abide by the accord may only be renewed or reinstated when proof of satisfaction of all debts is made.

(f) Legal fees may not be charged against the bond by the board.

(g) In any case in which a claim is filed against a deposit given in lieu of a bond by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested by



Section 96.5 of the Labor Code, conduct hearings to determine whether or not the wages or fringe benefits should be paid to the complainant. Upon a finding by the commissioner that the wages or fringe benefits should be paid to the complainant, the commissioner shall notify the registrar of the findings. The registrar shall not make payment from the deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within the period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the deposit to the complainant.

(h) Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a contractor's bond or bond of a qualifying individual filed by an active licensee shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years after the date the license was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover wages or fringe benefits, against a deposit given in lieu of a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within three years after the last date for which a deposit given in lieu of a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. If the board is notified of a complaint relative to a claim against the deposit, the deposit shall not be released until the complaint has been adjudicated.

SEC. 12. Section 7083 of the Business and Professions Code is amended to read:

7083. All licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in



business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action.

SEC. 13. Section 7085 of the Business and Professions Code is amended to read:

7085. (a) After investigating any verified complaint alleging a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement and finding a possible violation, the registrar may, with the concurrence of both the licensee and the complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising thereunder, to arbitration pursuant to this article, provided the registrar finds that:

(1) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement.

(2) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.

(3) The licensee does not have a history of repeated or similar violations.

(4) The licensee was in good standing at the time of the alleged violation.

(5) The licensee does not have any outstanding disciplinary actions filed against him or her.

(6) The parties have not previously agreed to private arbitration of the dispute pursuant to contract or otherwise.

(7) The parties have been advised of the provisions of Section 2855 of the Civil Code.

For the purposes of paragraph (1), "material damages" means damages greater than seven thousand five hundred dollars (\$7,500) and less than fifty thousand dollars (\$50,000).



(b) In all cases in which a possible violation of the sections set forth in paragraph (1) of subdivision (a) exists and the contract price is equal to or less than seven thousand five hundred dollars (\$7,500), or the demand for damages is equal to or less than seven thousand five hundred dollars (\$7,500) regardless of the contract price, the complaint shall be referred to arbitration, utilizing the criteria set forth in paragraphs (2) to (6), inclusive, of subdivision (a).

SEC. 14. Section 7090.1 of the Business and Professions Code is amended to read:

7090.1. (a) (1) Notwithstanding any other provisions of law, the failure to pay a civil penalty, or to comply with an order of correction or an order to pay a specified sum to an injured party in lieu of correction once the order has become final, shall result in the automatic suspension of a license by operation of law 30 days after noncompliance with the terms of the order.

(2) The registrar shall notify the licensee in writing of the failure to comply with the final order and that the license shall be suspended 30 days from the date of the notice.

(3) The licensee may contest the determination of noncompliance within 15 days after service of the notice, by written notice to the registrar. Upon receipt of the written notice, the registrar may reconsider the determination and after reconsideration may affirm or set aside the suspension.

(4) Reinstatement may be made at any time following the suspension by complying with the final order of the citation. If no reinstatement of the license is made within 90 days of the date of the automatic suspension, the cited license and any other contractors' license issued to the licensee shall be automatically revoked by operation of law for a period to be determined by the registrar pursuant to Section 7102.

(5) The registrar may delay, for good cause, the revocation of a contractor's license for failure to comply with the final order of the citation. The delay in the revocation of the license shall not exceed one year. When seeking a delay of the revocation of his or her license, a licensee shall apply to the registrar in writing prior to the date of the revocation of the licensee's license by operation of law and state the reasons that establish good cause for the delay. The registrar's power to grant a delay of the revocation shall expire



upon the effective date of the revocation of the licensee's license by operation of law.

(b) The cited licensee shall also be automatically prohibited from serving as an officer, director, associate, partner, or qualifying individual of another licensee, for the period determined by the registrar, and the employment, election, or association of that person by a licensee shall constitute grounds for disciplinary action. Any qualifier disassociated pursuant to this section shall be replaced within 90 days of the date of disassociation. Upon failure to replace the qualifier within 90 days of the prohibition, the license of the other licensee shall be automatically suspended or the qualifier's classification removed at the end of the 90 days.

SEC. 15. Section 7121 of the Business and Professions Code is amended to read:

7121. Any person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, or associate of any partnership, corporation, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or associate had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended, or revoked, shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of a licensee, and the employment, election, or association of this type of person by a licensee in any capacity other than as a nonsupervising bona fide employee shall constitute grounds for disciplinary action.

SEC. 16. Section 7124.5 of the Business and Professions Code is repealed.

SEC. 17. Section 7137 of the Business and Professions Code is amended to read:



7137. The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars (\$300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars (\$75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than seventy-five dollars (\$75).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not be more than seventy-five dollars (\$75).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars (\$60).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than sixty dollars (\$60).

(d) The initial license fee for an active or inactive license shall not be more than one hundred eighty dollars (\$180).

(e) The renewal fee for an active license shall not be more than three hundred sixty dollars (\$360).

The renewal fee for an inactive license shall not be more than one hundred eighty dollars (\$180).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars (\$75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars (\$75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars (\$75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars (\$75).

SEC. 18. Section 7804 of the Business and Professions Code is amended to read:



7804. Only a person registered as a geologist under the provisions of this chapter shall be entitled to take and use the title “professional geologist.” Only a person registered as a geologist and certified under the provisions of this chapter shall be entitled to take and use the title of a registered certified specialty geologist.

SEC. 19. Section 7806 of the Business and Professions Code is amended to read:

7806. A subordinate is any person who assists a professional geologist or registered geophysicist in the practice of geology or geophysics without assuming the responsible charge of work.

SEC. 20. Section 7830 of the Business and Professions Code is amended to read:

7830. It is unlawful for anyone other than a geologist registered under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional geologist or registered certified specialty geologist, or to use in any manner the title “professional geologist” or the title of any registered certified specialty geologist unless registered or registered and certified under this chapter.

SEC. 21. Section 7833 of the Business and Professions Code is amended to read:

7833. This chapter does not prohibit one or more geologists or geophysicists from practicing through the medium of a sole proprietorship, partnership, or corporation. In a partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a professional geologist. In a partnership or corporation whose primary activity consists of geophysical services, at least one partner or officer shall be a registered geophysicist.

SEC. 22. Section 7835 of the Business and Professions Code is amended to read:

7835. All geologic plans, specifications, reports, or documents shall be prepared by a professional geologist or registered certified specialty geologist, or by a subordinate employee under his or her direction. In addition, they shall be signed by the professional geologist or registered certified specialty geologist or stamped with his or her seal, either of which shall indicate his or her responsibility for them.



SEC. 23. Section 7835.1 of the Business and Professions Code is amended to read:

7835.1. All geophysical plans, specifications, reports, or documents shall be prepared by a registered geophysicist, registered certified specialty geophysicist, professional geologist, registered certified specialty geologist, or by a subordinate employee under his or her direction. In addition, they shall be signed by the registered geophysicist, registered certified specialty geophysicist, professional geologist, or registered certified specialty geologist, or stamped with his or her seal, either of which shall indicate his or her responsibility for them.

SEC. 24. Section 7837 of the Business and Professions Code is amended to read:

7837. A subordinate to a geologist or geophysicist registered under this chapter, insofar as he or she acts solely in that capacity, is exempt from registration under the provisions of this chapter. This exemption, however, does not permit any subordinate to practice geology or geophysics for others in his or her own right or to use the title “professional geologist” or “registered geophysicist.”

SEC. 25. Section 7843 is added to the Business and Professions Code, to read:

7843. (a) An applicant for certification as a geologist-in-training shall, upon making a passing grade in the National Association of State Boards of Geology’s Fundamentals of Geology examination be issued a certificate as a geologist-in-training. A renewal or other fee, other than the application fee, may not be charged for this certification. The certificate shall become invalid when the holder has qualified as a professional geologist as provided in Section 7841.

(b) A geologist-in-training certificate does not authorize the holder thereof to practice or offer to practice geology, in his or her own right, or to use the title specified in Section 7804.

(c) It is unlawful for anyone other than the holder of a valid geologist-in-training certificate issued under this chapter to use the title of “geologist-in-training” or any abbreviation of that title.

SEC. 26. Section 7845 of the Business and Professions Code is amended to read:

7845. Examinations for registration as a geologist or registered certified specialty geologist shall test the applicant’s



knowledge of geology and of any established specialty for which he or she applies and his or her ability to apply that knowledge and to assume responsible charge in the professional practice of geology or a certified specialty geology, or both geology and a certified specialty geology.

SEC. 27. Section 7852 of the Business and Professions Code is amended to read:

7852. (a) Each geologist registered under this chapter may, upon registration, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend "professional geologist."

(b) Each specialty geologist certified under this chapter may, upon certification, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend "certified specialty geologist."

SEC. 28. Section 7860 of the Business and Professions Code is amended to read:

7860. (a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional geologist, geophysicist, or person granted temporary authorizations pursuant to Sections 7848 and 7848.1, and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder, or may publicly reprove or revoke the temporary authorization granted to any person pursuant to Section 7848 or 7848.1, on any of the following grounds:

(1) Conviction of a crime substantially related to the qualifications, functions, or duties of a geologist or geophysicist.

(2) Misrepresentation, fraud, or deceit by a geologist or geophysicist in his or her practice.

(3) Negligence or incompetence by a geologist or geophysicist in his or her practice.

(4) Violation of any contract undertaken in the capacity of a geologist or geophysicist.

(5) Fraud or deceit in obtaining a certificate to practice as a geologist or geophysicist, or in obtaining a temporary authorization to practice pursuant to Section 7848 or 7848.1.



(c) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or may revoke the certificate of any geologist or geophysicist registered under this chapter, or may publicly reprove or revoke the temporary authorization granted to any person pursuant to Section 7848 or 7848.1, for unprofessional conduct. Unprofessional conduct includes, but is not limited to, any of the following:

(1) Aiding or abetting any person in a violation of this chapter or any regulation adopted by the board pursuant to this chapter.

(2) Violating this chapter or any regulation adopted by the board pursuant to this chapter.

(3) Conduct in the course of practice as a geologist or geophysicist that violates professional standards adopted by the board.

SEC. 29. Section 8024.1 of the Business and Professions Code is amended to read:

8024.1. Every person to whom a certificate is issued shall, as a condition precedent to its issuance, and in addition to any other fee which may be payable, pay the initial certificate fee prescribed by this chapter. Prior to receipt of an initial certificate fee, the board may issue an interim permit of a limited duration, but only to candidates eligible for certification under Section 8020. A limited permit shall be valid for 45 days, or until the board issues a certificate to the limited permitholder. If the board issues interim permits, the initial certificate fee, and any other fee that may be payable, shall be paid prior to the issuance of the certificate.

SEC. 30. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, “school” means a court reporter training program or an institution that provides a course of instruction approved by the board and the Bureau for Private Postsecondary and Vocational Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the



minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the California Department of Education, the Bureau for Private Postsecondary and Vocational Education, the Chancellor's Office of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be



accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools, including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees, including, but not limited to, those qualified by each recognized or provisionally recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(j) Inspections and investigations shall be conducted by the board as necessary to carry out this section, including, but not limited to, unannounced site visits.

(k) All recognized and provisionally recognized schools shall print in their school or course catalog the name, address, and telephone number of the board. At a minimum, the information shall be in 8-point bold type and include the following statement:

“IN ORDER FOR A PERSON TO QUALIFY FROM A SCHOOL TO TAKE THE STATE LICENSING EXAMINATION, THE PERSON SHALL COMPLETE A



PROGRAM AT A RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING THE MINIMUM REQUIREMENTS THAT A COURT REPORTING PROGRAM MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT: THE COURT REPORTERS BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE NUMBER).”

(l) Each court reporting school shall file with the board, not later than June 30 of each year, a current school catalog that shows all course offerings and staff, and for private schools, the owner, except that where there have been no changes to the catalog within the previous year, no catalog need be sent. In addition, each school shall also file with the board a statement certifying whether the school is in compliance with all statutes and the rules and regulations of the board, signed by the responsible court reporting program manager.

(m) A school offering court reporting may not make any written or verbal claims of employment opportunities or potential earnings unless those claims are based on verified data and reflect current employment conditions.

(n) If a school offers a course of instruction that exceeds the board’s minimum requirements, the school shall disclose orally and in writing the board’s minimum requirements and how the course of instruction differs from those criteria. The school shall make this disclosure before a prospective student executes an agreement obligating that person to pay any money to the school for the course of instruction. The school shall also make this disclosure to all students enrolled on January 1, 2002.

(o) Private and public schools shall provide each prospective student with all of the following and have the prospective student sign a document that shall become part of that individual’s permanent record, acknowledging receipt of each item:

(1) A student consumer information brochure published by the board.

(2) A list of the school’s graduation requirements, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary.

(3) A list of requirements to qualify for the state certified shorthand reporter licensing examination, including the number of tests, the pass point of each test, the speed of each test, and the type



of test, such as jury charge or literary, if different than those requirements listed in paragraph (2).

(4) A copy of the school's board-approved benchmarks for satisfactory progress as identified in subdivision (u).

(5) A report showing the number of students from the school who qualified for each of the certified shorthand reporter licensing examinations within the preceding two years, the number of those students that passed each examination, the time, as of the date of qualification, that each student was enrolled in court reporting school, and the placement rate for all students that passed each examination.

(6) On and after January 1, 2005, the school shall also provide to prospective students the number of hours each currently enrolled student who has qualified to take the next licensing test, exclusive of transfer students, has attended court reporting classes.

(p) All enrolled students shall have the information in subdivisions (n) and (o) on file no later than June 30, 2005.

(q) Public schools shall provide the information in subdivisions (n) and (o) to each new student the first day he or she attends theory or machine speed class, if it was not provided previously.

(r) Each enrolled student shall be provided written notification of any change in qualification or graduation requirements that is being implemented due to the requirements of any one of the school's oversight agencies. This notice shall be provided to each affected student at least 30 days before the effective date of the change and shall state the new requirement and the name, address, and telephone number of the agency that is requiring it of the school. Each student shall initial and date a document acknowledging receipt of that information and that document, or a copy thereof, shall be made part of the student's permanent file.

(s) Schools shall make available a comprehensive final examination in each academic subject to any student desiring to challenge an academic class in order to obtain credit towards certification for the state licensing examination. The points required to pass a challenge examination shall not be higher than the minimum points required of other students completing the academic class.

(t) An individual serving as a teacher, instructor, or reader shall meet the qualifications specified by regulation for his or her position.



(u) Each school shall provide a substitute teacher or instructor for any class for which the teacher or instructor is absent for two consecutive days or more.

(v) The board has the authority to approve or disapprove benchmarks for satisfactory progress which each school shall develop for its court reporting program. Schools shall use only board-approved benchmarks to comply with the provisions of paragraph (4) of subdivision (o) and subdivision (u).

(w) Each school shall counsel each student a minimum of one time within each 12-month period to identify the level of attendance and progress, and the prognosis for completing the requirements to become eligible to sit for the state licensing examination. If the student has not progressed in accordance with the board-approved benchmarks for that school, the student shall be counseled a minimum of one additional time within that same 12-month period.

(x) The school shall provide to the board, for each student qualifying through the school as eligible to sit for the state licensing examination, the number of hours the student attended court reporting classes, both academic and machine speed classes, including theory.

(y) The pass rate of first-time exam takers for each school offering court reporting shall meet or exceed the average pass rate of all first-time test takers for a majority of examinations given for the preceding three years. Failure to do so shall require the board to conduct a review of the program. In addition, the board may place the school on probation and may withdraw recognition if the school continues to place below the above described standard on the two exams that follow the three-year period.

(z) A school shall not require more than one 10-minute qualifying examination, as defined in the regulations of the board, for a student to be eligible to sit for the state certification examination.

(aa) A school shall provide the board the actual number of hours of attendance for each applicant the school qualifies for the state licensing examination.

(bb) The board shall, by December 1, 2001, do the following by regulation as necessary:



(1) Establish the format that shall be used by schools to report tracking of all attendance hours and actual timeframes for completed coursework.

(2) Require schools to provide a minimum of 10 hours of live dictation class each school week for every full-time student.

(3) Require schools to provide students with the opportunity to read back from their stenographic notes a minimum of one time each day to his or her instructor.

(4) Require schools to provide students with the opportunity to practice with a school-approved speed-building tape, or other assigned material, a minimum of one hour per day after school hours as a homework assignment and provide the notes from this tape to their instructor the following day for review.

(5) Develop standardization of policies on the use and administration of qualifier examinations by schools.

(6) Define qualifier exam as follows: the qualifier exam shall consist of 4-voice testimony of 10-minute duration at 200 wpm, graded at 97.5 percent accuracy, and in accordance with the guidelines followed by the board. Schools shall be required to date and number each qualifier and announce the date and number to the students at the time of administering the qualifier. All qualifiers shall indicate the actual dictation time of the test and the school shall catalog and maintain the qualifier for a period of not less than three years for the purpose of inspection by the board.

(7) Require schools to develop a program to provide students with the opportunity to interact with professional court reporters to provide skill support, mentoring, or counseling which they can document at least quarterly.

(8) Define qualifications and educational requirements required of instructors and readers that read test material and qualifiers.

(cc) The board shall adopt regulations to implement the requirements of this section not later than September 1, 2002.

(dd) The board may recover costs for any additional expenses incurred under the enactment amending this section in the 2001–02 Regular Session of the Legislature pursuant to its fee authority in Section 8031.

SEC. 31. Section 8764 of the Business and Professions Code is amended to read:



8764. The record of survey shall show the applicable provisions of the following consistent with the purpose of the survey:

(a) All monuments found, set, reset, replaced, or removed, describing their kind, size, and location, and giving other data relating thereto.

(b) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map, and north arrow.

(c) Name and legal designation of the property in which the survey is located, and the date or time period of the survey.

(d) The relationship to those portions of adjacent tracts, streets, or senior conveyances which have common lines with the survey.

(e) Memorandum of oaths.

(f) Statements required by Section 8764.5.

(g) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor, as may be determined by the civil engineer or land surveyor preparing the record of survey.

The record of survey shall also show, either graphically or by note, the reason or reasons, if any, why the mandatory filing provisions of subdivisions paragraphs (1) to (5), inclusive, of subdivision (b) of Section 8762 apply.

The record of survey need not consist of a survey of an entire property.

SEC. 32. Section 22575 of the Business and Professions Code is amended to read:

22575. (a) An operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service shall conspicuously post its privacy policy on its Web site, or in the case of an operator of an online service, make that policy available in accordance with paragraph (5) of subdivision (b) of Section 22577. An operator shall be in violation of this subdivision only if the operator fails to post its policy within 30 days after being notified of noncompliance.

(b) The privacy policy required by subdivision (a) shall do all of the following:



(1) Identify the categories of personally identifiable information that the operator collects through the Web site or online service about individual consumers who use or visit its commercial Web site or online service and the categories of third-party persons or entities with whom the operator may share that personally identifiable information.

(2) If the operator maintains a process for an individual consumer who uses or visits its commercial Web site or online service to review and request changes to any of his or her personally identifiable information that is collected through the Web site or online service, provide a description of that process.

(3) Describe the process by which the operator notifies consumers who use or visit its commercial Web site or online service of material changes to the operator's privacy policy for that Web site or online service.

(4) Identify its effective date.

SEC. 33. Section 9148.8 of the Government Code is amended to read:

9148.8. (a) The Joint Committee on Boards, Commissions, and Consumer Protection, acting pursuant to a request from the chairperson of the appropriate policy committee, shall evaluate a plan prepared pursuant to Section 9148.4 or 9148.6.

(b) Evaluations prepared by the Joint Committee on Boards, Commissions, and Consumer Protection pursuant to this section shall be provided to the respective policy and fiscal committees of the Legislature pursuant to rules adopted by each committee for this purpose.

SEC. 34. Section 11521 of the Government Code is amended to read:

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the



expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

SEC. 35. Section 25159.12 of the Health and Safety Code is amended to read:

25159.12. For purposes of this article, the following definitions apply:

(a) “Annulus” means the space between the outside edge of the injection tube and the well casing.

(b) “State board” means the State Water Resources Control Board.

(c) “Compatibility” means that waste constituents do not react with each other, with the materials constituting the injection well, or with fluids or solid geologic media in the injection zone or confining zone in a manner as to cause leaching, precipitation of solids, gas or pressure buildup, dissolution, or any other effect which will impair the effectiveness of the confining zone or the safe operation of the injection well.

(d) “Confining zone” means the geological formation, or part of a formation, which is intended to be a barrier to prevent the migration of waste constituents from the injection zone.

(e) “Constituent” means an element, chemical, compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department pursuant to this chapter.

(f) “Discharge” means to place, inject, dispose of, or store hazardous wastes into, or in, an injection well owned or operated by the person who is conducting the placing, disposal, or storage.



(g) “Drinking water” has the same meaning as “potential source of drinking water,” as defined in subdivision (t) of Section 25208.2.

(h) “Facility” means the structures, appurtenances, and improvements on the land, and all contiguous land, which are associated with an injection well, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units, including, but not limited to, surface impoundments, landfills, underground or aboveground tanks, sumps, pits, ponds, and lagoons, which are associated with an injection well.

(i) “Groundwater” means water, including, but not limited to, drinking water below the land surface in a zone of saturation.

(j) “Hazardous waste” means any hazardous waste specified as hazardous waste or extremely hazardous waste, as defined in this chapter. Any waste mixture formed by mixing any waste or substance with a hazardous waste shall be considered hazardous waste for the purposes of this article.

(k) “Hazardous waste facilities permit” means a permit issued for an injection well pursuant to Sections 25200 and 25200.6.

(l) “Injection well” or “well” means any bored, drilled, or driven shaft, dug pit, or hole in the ground whose depth is greater than the circumference of the bored hole and any associated subsurface appurtenances, including, but not limited to, the casing. For the purposes of this article, injection well does not include either of the following:

(1) Wells exempted pursuant to Section 25159.24.

(2) Wells which are regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code and Subpart F of Part 147 of Title 40 of the Code of Federal Regulations and are in compliance with that division and Subpart A (commencing with Section 146.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(m) “Injection zone” means that portion of the receiving formation which has received, is receiving, or is expected to receive, over the lifetime of the well, waste fluid from the injection well. “Injection zone” does not include that portion of the receiving formation which exceeds the horizontal and vertical extent specified pursuant to Section 25159.20.



(n) “Owner” means a person who owns a facility or part of a facility.

(o) “Perched water” means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(p) “pH” means a measure of a sample’s acidity expressed as a negative logarithm of the hydrogen ion concentration.

(q) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered petroleum engineer registered pursuant to Section 6762 of the Business and Professions Code. “Full-time experience” in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(r) “Receiving formation” means the geologic strata that are hydraulically connected to the injection well.

(s) “Regional board” means the California regional water quality control board for the region in which the injection well is located.

(t) “Report” means the hydrogeological assessment report specified in Section 25179.7.

(u) “Safe Drinking Water Act” means Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code.

(v) “Strata” means a distinctive layer or series of layers of earth materials.

(w) “Waste management unit” means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

SEC. 36. Section 25208.2 of the Health and Safety Code is amended to read:

25208.2. For purposes of this article, the following definitions apply:

(a) “Active life of the facility” means that period of time when the facility has the potential to adversely affect the waters of the



state, but if the owner enters into an agreement with the board to properly close the impoundment on a specified date, the active life of the facility means that period of time up to that specified date.

(b) “Background water quality” means the level of concentration of indicator parameters in groundwater that is not, or has not been, affected by any hazardous waste, hazardous waste constituent, or hazardous waste leachate emanating from a particular waste management unit.

(c) “Board” or “state board” means the State Water Resources Control Board.

(d) “Close the impoundment” means the permanent termination of all hazardous waste discharge operations at a waste management unit and any operations necessary to prepare that waste management unit for postclosure maintenance which are conducted pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and the regulations adopted by the state board and the department concerning the closure of surface impoundments.

(e) “Constituent” means an element, chemical compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department.

(f) “Discharge” means to place, dispose of, or store liquid hazardous wastes or hazardous wastes containing free liquids into or in a surface impoundment owned or operated by the person who is conducting the placing, disposal, or storage.

(g) “Emergency containment dike” means a berm which is located around a tank solely for the purpose of containing any emergency spills from the tank and which does not contain any liquid hazardous waste or hazardous wastes containing free liquids for longer than 48 hours.

(h) “Facility” means the structures, appurtenances, and improvements on the land, and all contiguous land, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units.

(i) “Free liquids” means liquids which readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.



(j) “Groundwater” means water below the land surface in a zone of saturation.

(k) “Hazardous waste” means a waste that is a hazardous waste, as specified in this chapter.

(l) “Indicator parameters” means the measureable physical or chemical characteristics in groundwater or soil-pore moisture which are likely to be affected by hazardous waste disposal operations and which are used, for comparison purposes, to assess the result of hazardous waste disposal operations at a particular waste management unit on the waters of the state.

(m) “Landfill” means a facility or part of a facility where hazardous waste is placed in or on land for disposal and which is not a land farm, surface impoundment, or an injection well.

(n) “Leachate” means any fluid, including any constituents in the liquid, that has percolated through, migrated from, or drained from, a hazardous waste management unit.

(o) “Owner” means a person who owns a facility or part of a facility.

(p) “Perched water” means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(q) “pH” means a measure of a sample’s acidity expressed as a negative logarithm of the hydrogen ion concentration.

(r) “Pile” means any noncontainerized accumulation of solid, nonflowing hazardous waste which is used for the purpose of treatment or storage.

(s) “Pollution” has the same meaning as defined in Section 13050 of the Water Code.

(t) “Potential source of drinking water” means either water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses and which is potable, or water which is located in water-bearing strata which is an underground source of drinking water, as defined in Section 146.3 of Title 40 of the Code of Federal Regulations, and which is not an exempted aquifer, as defined in Section 146.4 of Title 40 of the Code of Federal Regulations.

(u) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a certified engineering geologist certified pursuant to Section 7842 of the Business and Professions Code, a professional geologist



registered pursuant to Section 7850 of the Business and Professions Code, or a registered civil engineer registered pursuant to Section 6762 of the Business and Professions Code. “Full-time experience” in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(v) “Regional board” means the California regional water quality control board for the region in which the surface impoundment is located.

(w) “Report” means the hydrogeological assessment report specified in Section 25208.8.

(x) “Surface impoundment” or “impoundment” means a waste management unit or part of a waste management unit which is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, although it may be lined with artificial materials, which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, including, but not limited to, holding, storage, settling, or aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill, a land farm, a pile, emergency containment dike, tank, or an injection well.

(y) “Tank” means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of nonearthen materials such as fiberglass, steel, or plastic to provide structural support, and which has been issued a permit pursuant to Section 25283.

(z) “Vadose zone” means the zone between the land surface and the water table.

(aa) “Waste management unit” means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

SEC. 37. Section 662 of the Public Resources Code is amended to read:

662. (a) One member of the board shall be a professional geologist with background and experience in mining geology; one



member shall be a mining engineer with background and experience in mining minerals in California; one member shall have background and experience in groundwater hydrology, water quality, and rock chemistry; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a professional geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource conservation, development, and utilization; and one member shall not be required to have specialized experience.

(b) All members of the board shall represent the general public interest, but not more than one-third of the members at any one time may be currently employed by, or receive more than 25 percent of their annual income, not to exceed \$25,000 a year per member, from an entity that owns or operates a mine in California. The representative of local government shall not be considered an employee of an entity that owns or operates a mine if the lead agency employing the representative owns or operates a mine. For purposes of this section, retirement or other benefits paid by a mining entity to an individual who is no longer employed by that entity are not considered to be compensation, if those benefits were earned prior to the date the individual terminated his or her employment with the entity.

(c) If a member of the board determines that he or she has a conflict of interest on a particular matter before the board pursuant to subdivision (b) or Section 663, he or she shall provide the clerk of the board with a brief written explanation of the basis for the conflict of interest, which shall become a part of the public record of the board. The written explanation shall be delivered prior to the time the matter to which it pertains is voted on by the board. This disclosure requirement is in addition to any other conflict-of-interest disclosure requirement imposed by law.

SEC. 38. Section 13273 of the Water Code is amended to read:

13273. (a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in paragraph



(5) of subdivision (i) of Section 41805.5 of the Health and Safety Code, based upon the threat they may pose to water quality. On or before July 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before July 1 of each succeeding year, the operators of the next 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a professional geologist, registered pursuant to Section 7850 of the Business and Professions Code, a certified engineering geologist, certified pursuant to Section 7842 of the Business and Professions Code, or a civil engineer registered pursuant to Section 6762 of the Business and Professions Code, who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other information demonstrates that hazardous wastes are migrating into the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the Department of Toxic Substances Control, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soil testing could detect any leachate buildup, leachate migration, or hazardous waste



migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the Department of Toxic Substances Control and the California Integrated Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the information provided in the solid waste assessment test report and any other relevant site-specific engineering data provided by the site operator for that solid waste disposal site as part of a report of waste discharge.



Approved _____, 2004

Governor

