

ASSEMBLY BILL

No. 1855

Introduced by Assembly Member Melendez

February 19, 2014

An act to amend Sections 8726 and 8762 of the Business and Professions Code, relating to land surveying.

LEGISLATIVE COUNSEL'S DIGEST

AB 1855, as introduced, Melendez. Land surveying: field survey record.

(1) Existing law, the Professional Land Surveyors' Act and the Professional Engineers Act, provides for the licensure and regulation of professional land surveyors and civil engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. Violation of those acts is a crime.

Existing law defines the practice of land surveying to include, among other practices, use of the principles of land surveying to determine the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any monument or reference point.

This bill would additionally include in that practice use of those principles to determine the position of an easement.

(2) Existing law requires a licensed land surveyor or a licensed civil engineer who makes a field survey in conformity with the practice of land surveying to file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses specified information. This information includes, among other information, that the points or lines set during the performance of a field survey of any

parcel described in any deed or other instrument of title recorded in the county recorder’s office are not shown on any subdivision map, official map, or record of survey. Existing law requires a county surveyor to examine and file those records.

This bill would additionally require a licensed land surveyor or a licensed civil engineer to file a record of a field survey relating to an easement, or if the points or lines set during the performance of a field survey of any parcel described in any easement are not shown on those maps or records of survey.

(3) Because this bill would expand a crime, and would impose a higher standard of service on county surveyors, the bill would create state-mandated local programs.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 8726 of the Business and Professions
- 2 Code is amended to read:
- 3 8726. A person, including any person employed by the state
- 4 or by a city, county, or city and county within the state, practices
- 5 land surveying within the meaning of this chapter who, either in
- 6 a public or private capacity, does or offers to do any one or more
- 7 of the following:
- 8 (a) Locates, relocates, establishes, reestablishes, or retraces the
- 9 alignment or elevation for any of the fixed works embraced within
- 10 the practice of civil engineering, as described in Section 6731.
- 11 (b) Determines the configuration or contour of the earth’s
- 12 surface, or the position of fixed objects above, on, or below the
- 13 surface of the earth by applying the principles of mathematics or
- 14 photogrammetry.

1 (c) Locates, relocates, establishes, reestablishes, or retraces any
2 property line or boundary of any parcel of land, right-of-way,
3 easement, or alignment of those lines or boundaries.

4 (d) Makes any survey for the subdivision or resubdivision of
5 any tract of land. For the purposes of this subdivision, the term
6 “subdivision” or “resubdivision” shall be defined to include, but
7 not be limited to, the definition in the Subdivision Map Act
8 (Division 2 (commencing with Section 66410) of Title 7 of the
9 Government Code) or the Subdivided Lands Law (Chapter 1
10 (commencing with Section 11000) of Part 2 of Division 4 of this
11 code).

12 (e) By the use of the principles of land surveying determines
13 the position for any monument or reference point which marks a
14 property line, boundary, *easement*, or corner, or sets, resets, or
15 replaces any monument or reference point.

16 (f) Geodetic or cadastral surveying. As used in this chapter,
17 geodetic surveying means performing surveys, in which account
18 is taken of the figure and size of the earth to determine or
19 predetermine the horizontal or vertical positions of fixed objects
20 thereon or related thereto, geodetic control points, monuments, or
21 stations for use in the practice of land surveying or for stating the
22 position of fixed objects, geodetic control points, monuments, or
23 stations by California Coordinate System coordinates.

24 (g) Determines the information shown or to be shown on any
25 map or document prepared or furnished in connection with any
26 one or more of the functions described in subdivisions (a), (b), (c),
27 (d), (e), and (f).

28 (h) Indicates, in any capacity or in any manner, by the use of
29 the title “land surveyor” or by any other title or by any other
30 representation that he or she practices or offers to practice land
31 surveying in any of its branches.

32 (i) Procures or offers to procure land surveying work for himself,
33 herself, or others.

34 (j) Manages, or conducts as manager, proprietor, or agent, any
35 place of business from which land surveying work is solicited,
36 performed, or practiced.

37 (k) Coordinates the work of professional, technical, or special
38 consultants in connection with the activities authorized by this
39 chapter.

1 (l) Determines the information shown or to be shown within
2 the description of any deed, trust deed, or other title document
3 prepared for the purpose of describing the limit of real property
4 in connection with any one or more of the functions described in
5 subdivisions (a) to (f), inclusive.

6 (m) Creates, prepares, or modifies electronic or computerized
7 data in the performance of the activities described in subdivisions
8 (a), (b), (c), (d), (e), (f), (k), and (l).

9 (n) Renders a statement regarding the accuracy of maps or
10 measured survey data.

11 Any department or agency of the state or any city, county, or
12 city and county that has an unregistered person in responsible
13 charge of land surveying work on January 1, 1986, shall be exempt
14 from the requirement that the person be licensed as a land surveyor
15 until the person currently in responsible charge is replaced.

16 The review, approval, or examination by a governmental entity
17 of documents prepared or performed pursuant to this section shall
18 be done by, or under the direct supervision of, a person authorized
19 to practice land surveying.

20 SEC. 2. Section 8762 of the Business and Professions Code is
21 amended to read:

22 8762. (a) Except as provided in subdivision (b), after making
23 a field survey in conformity with the practice of land surveying,
24 the licensed surveyor or licensed civil engineer may file with the
25 county surveyor in the county in which the field survey was made,
26 a record of the survey.

27 (b) Notwithstanding subdivision (a), after making a field survey
28 in conformity with the practice of land surveying, the licensed land
29 surveyor or licensed civil engineer shall file with the county
30 surveyor in the county in which the field survey was made a record
31 of the survey relating to land boundaries~~or~~, property lines, *or*
32 *easements*, if the field survey discloses any of the following:

33 (1) Material evidence or physical change, which in whole or in
34 part does not appear on any subdivision map, official map, or
35 record of survey previously recorded or properly filed in the office
36 of the county recorder or county surveying department, or map or
37 survey record maintained by the Bureau of Land Management of
38 the United States.

39 (2) A material discrepancy with the information contained in
40 any subdivision map, official map, or record of survey previously

1 recorded or filed in the office of the county recorder or the county
2 surveying department, or any map or survey record maintained by
3 the Bureau of Land Management of the United States. For purposes
4 of this subdivision, a “material discrepancy” is limited to a material
5 discrepancy in the position of points or lines, or in dimensions.

6 (3) Evidence that, by reasonable analysis, might result in
7 materially alternate positions of lines or points, shown on any
8 subdivision map, official map, or record of survey previously
9 recorded or filed in the office of the county recorder or the county
10 surveying department, or any map or survey record maintained by
11 the Bureau of Land Management of the United States.

12 (4) The location, relocation, establishment, reestablishment, or
13 retracement of one or more points or lines not shown on any
14 subdivision map, official map, or record of survey, the positions
15 of which are not ascertainable from an inspection of the subdivision
16 map, official map, or record of survey.

17 (5) The points or lines set during the performance of a field
18 survey of any parcel described in any *easement*, deed, or other
19 instrument of title recorded in the county recorder’s office are not
20 shown on any subdivision map, official map, or record of survey.

21 (c) The record of survey required to be filed pursuant to this
22 section shall be filed within 90 days after the setting of boundary
23 monuments during the performance of a field survey or within 90
24 days after completion of a field survey, whichever occurs first.

25 (d) (1) If the 90-day time limit contained in subdivision (c)
26 cannot be complied with for reasons beyond the control of the
27 licensed land surveyor or licensed civil engineer, the 90-day time
28 period shall be extended until the time at which the reasons for
29 delay are eliminated. If the licensed land surveyor or licensed civil
30 engineer cannot comply with the 90-day time limit, he or she shall,
31 prior to the expiration of the 90-day time limit, provide the county
32 surveyor with a letter stating that he or she is unable to comply.
33 The letter shall provide an estimate of the date for completion of
34 the record of survey, the reasons for the delay, and a general
35 statement as to the location of the survey, including the assessor’s
36 parcel number or numbers.

37 (2) The licensed land surveyor or licensed civil engineer shall
38 not initially be required to provide specific details of the survey.
39 However, if other surveys at the same location are performed by
40 others which may affect or be affected by the survey, the licensed

1 land surveyor or licensed civil engineer shall then provide
2 information requested by the county surveyor without unreasonable
3 delay.

4 (e) Any record of survey filed with the county surveyor shall,
5 after being examined by him or her, be filed with the county
6 recorder.

7 (f) If the preparer of the record of survey provides a
8 postage-paid, self-addressed envelope or postcard with the filing
9 of the record of survey, the county recorder shall return the
10 postage-paid, self-addressed envelope or postcard to the preparer
11 of the record of survey with the filing data within 10 days of final
12 filing. For the purposes of this subdivision, "filing data" includes
13 the date, the book or volume, and the page at which the record of
14 survey is filed with the county recorder.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution for certain
17 costs that may be incurred by a local agency or school district
18 because, in that regard, this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty for a crime
20 or infraction, within the meaning of Section 17556 of the
21 Government Code, or changes the definition of a crime within the
22 meaning of Section 6 of Article XIII B of the California
23 Constitution.

24 However, if the Commission on State Mandates determines that
25 this act contains other costs mandated by the state, reimbursement
26 to local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.