

Senate Bill No. 136

Passed the Senate September 12, 2001

Secretary of the Senate

Passed the Assembly September 5, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 5800, 5810, 6710, 6714, 6735, 6735.3, 6735.4, 6795, 6799, 7200, 7215.6, 8710, 8741.1, 8801, 8805, 22251, 22254, 22255, and 22259 of, to add Sections 5801.1, 5811, and 5812 to, the Business and Professions Code, relating to professional boards, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 136, Figueroa. Professional boards.

Existing law provides for the establishment of various professional boards and professional titling and regulatory programs within the Department of Consumer Affairs, including the Board for Professional Engineers and Land Surveyors, the State Board of Guide Dogs for the Blind, and the Tax Preparer Program. Funds in the Professional Engineer's and Land Surveyor's Fund are continuously appropriated for purposes of the Board for Professional Engineers and Land Surveyors.

This bill would extend the operation of the titling provisions relating to the Board for Professional Engineers and Land Surveyors, the State Board of Guide Dogs for the Blind, and the Tax Preparer Program. The bill would authorize the Board for Professional Engineers and Land Surveyors to increase registration fees for professional engineers and would thereby make an appropriation by including fee amounts deposited in a continuously appropriated fund. The bill would modify various other provisions relating to professional engineers, interior designers, and tax preparers. Because the bill would impose crimes and penalties for an extended period of time, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

Appropriation: yes.



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

SECTION 1. Section 5800 of the Business and Professions Code is amended to read:

5800. As used in this chapter:

(a) “Certified interior designer” means a person who prepares and submits nonstructural or nonseismic plans consistent with Sections 5805 and 5538 to local building departments that are of sufficient complexity so as to require the skills of a licensed contractor to implement them, and who engages in programming, planning, designing, and documenting the construction and installation of nonstructural or nonseismic elements, finishes and furnishings within the interior spaces of a building, and has demonstrated by means of education, experience and examination, the competency to protect and enhance the health, safety, and welfare of the public.

(b) An “interior design organization” means a nonprofit organization, exempt from taxation under Section 501(c)(3) of Title 26 of the United States Code, of certified interior designers whose governing board shall include representatives of the public, except that an organization that is not currently exempt under that section that submits an application to the Internal Revenue Service requesting an exemption under that section shall be eligible to be an interior design organization if it meets the requirements under that section within a reasonable period of time.

SEC. 2. Section 5801.1 is added to the Business and Professions Code, to read:

5801.1. The procedure for the issuance of a stamp by an interior design organization under Section 5801, including the examinations recognized and required by the organization, shall be subject to the occupational analyses and examination validation required by Section 139 every five to seven years.

SEC. 3. Section 5810 of the Business and Professions Code is amended to read:

5810. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).

This chapter shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.



SEC. 4. Section 5811 is added to the Business and Professions Code, to read:

5811. An interior design organization issuing stamps under Section 5801 shall do the following:

(a) Report to the Joint Legislative Sunset Review Committee by September 1, 2002, on outreach efforts, examinations, finances, interactions of the organization, and materials and information.

(b) Have an audit conducted independently of their revenues and expenditures and provide the results of the audit to the Joint Legislative Sunset Review Committee within a reasonable time.

SEC. 5. Section 5812 is added to the Business and Professions Code, to read:

5812. It is an unfair business practice for any person to represent themselves as a “certified interior designer” unless they comply with the requirements of this chapter.

SEC. 6. Section 6710 of the Business and Professions Code is amended to read:

6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.

(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.

(c) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of the board shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

SEC. 7. Section 6714 of the Business and Professions Code is amended to read:

6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.



This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7.2. Section 6735 of the Business and Professions Code is amended to read:

6735. (a) All civil (including structural and geotechnical) engineering plans, calculations, specifications, and reports (hereinafter referred to as “documents”) shall be prepared by, or under the responsible charge of, a registered civil engineer and shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as “preliminary,” “not for construction,” “for plan check only,” or “for review only.” All civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority. All final civil engineering calculations and reports shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the certificate or authority. If civil engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear on each sheet of the plans. If civil engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate or authority shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

(b) Notwithstanding subdivision (a), a registered civil engineer who signs civil engineering documents shall not be responsible for damage caused by subsequent changes to or uses of those documents, if the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered engineer who originally signed the documents, provided that the engineering service rendered by the civil engineer who signed the documents was not also a proximate cause of the damage.



SEC. 7.4. Section 6735.3 of the Business and Professions Code is amended to read:

6735.3. (a) All electrical engineering plans, specifications, calculations, and reports (hereinafter referred to as “documents”) prepared by, or under the responsible charge of, a registered electrical engineer shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as “preliminary,” “not for construction,” “for plan check only,” or “for review only.” All electrical engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the registration. All final electrical engineering calculations and reports shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the registration. If electrical engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the registration shall appear on each sheet of the plans. If electrical engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the registration shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

(b) Notwithstanding subdivision (a), a registered electrical engineer who signs electrical engineering documents shall not be responsible for damage caused by subsequent changes to or uses of those documents, if the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered engineer who originally signed the documents, provided that the engineering service rendered by the electrical engineer who signed the documents was not also a proximate cause of the damage.

SEC. 7.6. Section 6735.4 of the Business and Professions Code is amended to read:

6735.4. (a) All mechanical engineering plans, specifications, calculations, and reports (hereinafter referred to as “documents”) prepared by, or under the responsible charge of, a registered mechanical engineer shall include his or her name and license



number. Interim documents shall include a notation as to the intended purpose of the document, such as “preliminary,” “not for construction,” “for plan check only,” or “for review only.” All mechanical engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the registration. All final mechanical engineering calculations and reports shall bear the signature and seal or stamp of the registrant, the date of signing and sealing or stamping, and the expiration date of the registration. If mechanical engineering plans are required to be signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the certificate of registration shall appear on each sheet of the plans. If mechanical engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, date of signing and sealing or stamping, and expiration date of the registration shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

(b) Notwithstanding subdivision (a), a registered mechanical engineer who signs mechanical engineering documents shall not be responsible for damage caused by subsequent changes to or uses of those documents, if the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered engineer who originally signed the documents, provided that the engineering service rendered by the mechanical engineer who signed the documents was not also a proximate cause of the damage.

SEC. 8. Section 6795 of the Business and Professions Code is amended to read:

6795. Certificates of registration as a professional engineer, and certificates of authority, shall be valid for a period of two years from the assigned date of renewal. Biennial renewals shall be staggered on a monthly basis. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.



SEC. 9. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a professional engineer and each application for authority level designation at not more than four hundred dollars (\$400), and for each application for certification as an engineer-in-training at not more than one hundred dollars (\$100).

(b) The temporary registration fee for a professional engineer at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for each branch of professional engineering in which registration is held, and the renewal fee for each authority level designation held, at no more than the professional engineer application fee currently in effect.

(d) The fee for a retired license at not more than 50 percent of the professional engineer application fee in effect on the date of application.

(e) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(f) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee charged shall be no more than the costs incurred by the board.

(g) All other document fees are to be set by the board by rule.

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 10. Section 7200 of the Business and Professions Code is amended to read:

7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.



(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 7215.6 of the Business and Professions Code is amended to read:

7215.6. (a) In order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, in all cases except those in which the dog user is the unconditional legal owner of the dog, the following arbitration procedure shall be established as a pilot project.

(b) This procedure establishes an arbitration panel for the settlement of disputes between a guide dog user and a licensed guide dog school regarding the continued use of a guide dog by the user in all cases except those in which the dog user is the unconditional legal owner of the dog. The disputes which may be subject to this procedure concern differences between the user and school over whether or not a guide dog should continue to be used, differences between the user and school regarding the treatment of a dog by the user, and differences over whether or not a user should continue to have custody of a dog pending investigation of charges of abuse. It specifically does not address issues such as admissions to schools, training practices, or other issues relating to school standards. The board and its representative are not parties to any dispute described in this section.

(c) The licensed guide dog schools in California and the board shall provide to guide dog users graduating from guide dog programs in these schools a new avenue for the resolution of disputes that involve continued use of a guide dog, or the actual physical custody of a guide dog. Guide dog users who are dissatisfied with decisions of schools regarding continued use of guide dogs may appeal to the board to convene an arbitration panel composed of all of the following:

- (1) One person designated by the guide dog user.
- (2) One person designated by the licensed guide dog school.
- (3) A representative of the board who shall coordinate the activities of the panel and serve as chair.

(d) If the guide dog user or guide dog school wishes to utilize the arbitration panel, this must be stated in writing to the board.



The findings and decision of the arbitration panel shall be final and binding. By voluntarily agreeing to having a dispute resolved by the arbitration panel and subject to its procedures, each party to the dispute shall waive any right for subsequent judicial review.

(e) A licensed guide dog school that fails to comply with any provision of this section shall automatically be subject to a penalty of two hundred fifty dollars (\$250) per day for each day in which a violation occurs. The penalty shall be paid to the board. The license of a guide dog school shall not be renewed until all penalties have been paid.

The fine shall be assessed without advance hearing, but the licensee may apply to the board for a hearing on the issue of whether the fine should be modified or set aside. This application shall be in writing and shall be received by the board within 30 days after service of notice of the fine. Upon receipt of this written request, the board shall set the matter for hearing within 60 days.

(f) As a general rule, custody of the guide dog shall remain with the guide dog user pending a resolution by the arbitration panel. In circumstances where the immediate health and safety of the guide dog user or guide dog is threatened, the licensed school may take custody of the dog at once. However, if the dog is removed from the user's custody without the user's concurrence, the school shall provide to the board the evidence that caused this action to be taken at once and without fail; and within five calendar days a special committee of two members of the board shall make a determination regarding custody of the dog pending hearing by the arbitration panel.

(g) The arbitration panel shall decide the best means to determine final resolution in each case. This shall include, but is not limited to, a hearing of the matter before the arbitration panel at the request of either party to the dispute, an opportunity for each party in the dispute to make presentations before the arbitration panel, examination of the written record, or any other inquiry as will best reveal the facts of the disputes. In any case, the panel shall make its findings and complete its examination within 45 calendar days of the date of filing the request for arbitration, and a decision shall be rendered within 10 calendar days of the examination.

All arbitration hearings shall be held at sites convenient to the parties and with a view to minimizing costs. Each party to the



arbitration shall bear its own costs, except that the arbitration panel, by unanimous agreement, may modify this arrangement.

(h) The board may study the effectiveness of the arbitration panel pilot project in expediting resolution and reducing conflict in disputes between guide dog users and guide dog schools and may share its findings with the Legislature upon request.

(i) This section shall cease to be operative on July 1, 2008, and as of January 1, 2009, is repealed, unless a later enacted statute, which is enacted before January 1, 2009, deletes or extends that date.

SEC. 12. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The Board for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

(c) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

SEC. 13. Section 8741.1 of the Business and Professions Code is amended to read:

8741.1. The second division of the examination for licensure as a land surveyor shall include an examination that incorporates a national examination for land surveying by a nationally recognized entity approved by the board, and a supplemental California specific examination. The California specific



examination shall test the applicant's knowledge of the provisions of this chapter and the board's rules and regulations regulating the practice of professional land surveying in this state. The board shall prepare and distribute to applicants for the second division of the examination a plain language pamphlet describing the provisions of this chapter and the board's rules and regulations regulating the practice of land surveying in the state.

The board shall use the national examination on or before June 1, 2003. In the meantime, the board may continue to provide the current state-only second division examination and administer the test on the provisions of this chapter and board rules as a separate part of the second division examination for licensure as a land surveyor.

SEC. 14. Section 8801 of the Business and Professions Code is amended to read:

8801. Licenses issued under this chapter expire every two years, if not renewed. Biennial renewals shall be staggered on a quarterly basis. To renew an unexpired license the licenseholder shall on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 15. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than four hundred dollars (\$400), and for each application for certification as a land surveyor-in-training (LSIT) at not more than one hundred dollars (\$100).

(b) The temporary registration fee for a land surveyor at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for a land surveyor at not more than the application fee.

(d) The fee for a retired license at not more than 50 percent of the professional land surveyor application fee in effect on the date of application.

(e) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.



(f) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee shall be no more than the costs incurred by the board.

(g) All other document fees are to be set by the board by rule.

SEC. 16. Section 22251 of the Business and Professions Code is amended to read:

22251. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), “tax preparer” includes:

(A) A person who, for a fee or for other consideration, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), “tax preparer” does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer’s income, sales, or payroll tax returns.

(b) “Tax return” means a return, declaration, statement, refund claim, or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

(c) An “approved curriculum provider,” for purposes of basic instruction as described in subdivision (a) of Section 22255, and continuing education as described in subdivision (b) of Section 22255, is one who has been approved by the council as defined in subdivision (d), or by the Bureau for Private Postsecondary and Vocational Education under Chapter 7 (commencing with Section



94700) of Part 59 of Division 10 of the Education Code. A curriculum provider who is approved by the tax education council is exempt from Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code.

(d) “Council” means the California Tax Education Council which is a single organization made up of not more than one representative from each professional society, association, or other entity operating as a California nonprofit corporation which chooses to participate in the council and which represents tax preparers, enrolled agents, attorneys, or certified public accountants with a membership of at least 200 for the last three years, and not more than one representative from each for-profit tax preparation corporation which chooses to participate in the council and which has at least 200 employees and has been operating in California for the last three years. The council shall establish a process by which two individuals who are tax preparers, pursuant to Section 22255, are appointed to the council with full voting privileges, to serve terms as determined by the council, and with initial terms to be served on a staggered basis, providing that a person exempt from the requirements of this title pursuant to Section 22258 shall not be eligible for appointment, other than an employee of an individual in an exempt category.

SEC. 17. Section 22254 of the Business and Professions Code is amended to read:

22254. A provider of tax preparer education for tax preparers shall meet standards and procedures as approved by the council. The council shall either approve or decline to approve providers of tax preparer education within 120 days of receiving a request for approval. If approval is not declined within 120 days, the provider shall be deemed approved. A listing of those providers approved by the council shall be made available to tax preparers upon request.

SEC. 18. Section 22255 of the Business and Professions Code is amended to read:

22255. (a) The council shall issue a “certificate of completion” to the tax preparer when the tax preparer demonstrates that he or she has (1) completed not less than 60 hours of instruction in basic personal income tax law, theory, and practice by an approved curriculum provider within the previous 18 months; and (2) provides evidence of compliance with the



bonding requirement of Section 22250, including the name of the surety company, the bond number, and the bond expiration date. Of the required 60 hours, 45 hours shall be concerned with federal tax curriculum and 15 hours shall be concerned with state tax curriculum.

(b) A tax preparer shall complete on an annual basis not less than 20 hours of continuing education, including 12 hours in federal taxation, four hours in California taxation and an additional four hours in either federal or California taxation from an approved curriculum provider. The council shall issue annually a “statement of compliance” when the tax preparer demonstrates that he or she has (1) completed the required 20 hours of continuing education, and (2) provides evidence of compliance with the bonding requirement of Section 22250, including the name of the surety company, the bond number, and the bond expiration date.

(c) An individual who possesses a minimum of two recent years experience in the preparation of personal income tax returns may petition the council to review the experience and determine if it is the equivalent of the required qualifying education. The council may provide that individual with a “certificate of completion” if it is determined that the experience is the equivalent of the required hours. Tax preparation performed in situations that violate this chapter, by an individual who is neither registered nor exempted, may not be used toward the qualifying experience needed for registration as a tax preparer.

SEC. 19. Section 22259 of the Business and Professions Code is amended to read:

22259. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).

This chapter shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends that date on which it becomes inoperative and is repealed.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section



17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2001

Governor

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