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## Why Must California Be Different?

by James W. Foley, P.E., S.E., G.E.

Board President (7/1/04 - 6/30/05)

Since I was appointed by Governor Wilson to BPELS in October 1998, the Board has been focusing every year on Sunset Review. With encouragement from the Joint Legislative Committee on Boards, Commissions and Consumer Protection and various consumer groups and representatives, the Board adopted a Code of Conduct, began requiring written contracts with clients, developed definitions of negligence and incompetence, started using national examinations for structural engineering and land surveying, and changed license renewal fees to a two year cycle. All these changes were beneficial to our profession.

Since September 2000 when The Engineering Title Act Study (Study) was mandated by the legislature, the Board has almost exclusively focused on Sunset Review as it related to the Study. Research has led me to believe that this Study was unique and one of the most comprehensive studies of engineering licensure ever undertaken by any entity. The Study was performed by the Institute for Social Research from California State University, Sacramento. Completion was originally scheduled for September 1, 2001. Due to unforeseen complexities and the lack of available information, extensive research was required and completion did not occur until November 2002. The Institute for Social Research is to be commended for tackling this daunting task and producing a comprehensive report. A complete copy of the Study can be found on the [California Department of Consumer Affairs web site](#). I recommend that every Professional Engineer and Land Surveyor licensed by this Board read this exceptional [report](#).

Upon completion of the Study, the Board convened the Title Act Study Task Force for further evaluation and development of final recommendations for the Board. The Task Force, chaired by former Board President Steve Lazarian, Esq., included representatives from consumer groups, legislative staff, the professional engineering community, and the Board. The Task Force solicited public comments on five separate occasions in northern and southern California between August 2003 and January 2004. The Task Force then developed ten recommendations based on both the Study and public input. The Board adopted those [recommendations](#) on April 22, 2004. Again, I urge reading these [recommendations](#).

At its May 13, 2005 meeting, the Board approved draft legislation incorporating the recommendations of the Task Force as adopted by the Board. This draft was forwarded to the staff of the Joint Legislative Committee for inclusion in the 2005 legislative process. This will probably be one of the most significant and extensive changes to the Professional Engineers Act in over 30 years.

The impetus for this entire process stems from the confusion both within and outside the profession concerning title act and practice act engineers. I admit that prior to my appointment to the Board, I wasn't aware there was a difference - nor as a "practicing" engineer did I particularly care!

The Study revealed that the concept of "title act engineers" (not title authority) began in 1947 with the inclusion of the chemical, electrical, mechanical, and petroleum disciplines in the Professional Engineers Act as "title act engineers." Electrical and Mechanical Engineers were subsequently re-defined as practice disciplines in 1967 - a seemingly natural evolution. But the question of differentiation between title and practice still begs an answer. The Study also revealed that California is unique. California is the only state and the only member of the National Council of Examiners for Engineering and Surveying (NCEES) to have a dual system of engineering licensure. Our closest neighbor, Nevada, provides for licensure as a practice in all seventeen engineering disciplines for which NCEES provides an examination. Twenty-three other NCEES member-licensing boards were used for comparison in the ISR study.

To eliminate this confusion and insure compatibility with other states and territories, the Board recommends that the legislature re-define the current title acts as practice acts allowing for overlap for incidental practice within a licensee's area of competency. The title acts, as currently defined in regulation, will be similarly defined in the Professional Engineers Act. This greatly simplifies the ability of the Board to regulate all Professional Engineers. It also eases our comity problems with other states and territories. No new disciplines are being created; there are no new restrictions to the existing practice acts. All consumers of professional engineering should be relieved at the reduction in confusion.

Other features of the legislation include discontinuation of testing for disciplines for which NCEES no longer offers an examination and elimination of obsolete requirements that burden Board staff. Additionally, the Board proposes that the examinations be administered by a nationally recognized entity. This will significantly reduce the exposure of the Board to risks associated with lost examinations and security breaches.

Finally, with the encouragement of the Joint Committee staff, it is proposed that the Board's sunset date be extended to 2012. This would relieve the Board from the constant burden of justifying our very existence and let the Board focus on its mission: "to safeguard the life health, property, and welfare of the public by regulating the practices of professional engineering and land surveying."

I hope every engineer will support this effort to eliminate the arcane provisions of our Professional Engineers Act and embrace the proposed changes. It's time to bring Professional Engineering in California into the 21st Century.

*Posted June 10, 2005*

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