

STATE OF NEVADA
BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Legislative Committee Meeting
held in Reno, Nevada, February 7, 2018

Committee Chairman Michael G Kidd, PLS, called the meeting to order at 10:02 am in the Ed and Mary Alice Pine Board Room, Suite 130, 1755 East Plumb Lane, Reno, Nevada 89502. Committee members present were Karen Purcell, PE; Patty Mamola, PE, Executive Director; L Brent Wright, PE/SE; Bud A Cranor, Public. Also present were Sarah Wiley, Administrative Assistant; Murray Blaney, Compliance Officer; Christopher MacKenzie, Board Counsel; Greg Phillips, NALS

1. Public Comment Period

There were no public comments.

2. Review of Nevada Administrative Code chapter 625 for potential changes

a. Draft changes to stamping regulation – NAC 625.610 and 625.611

Ms Mamola asked for any comments or concerns over proposed language. Mr MacKenzie discussed the reasoning for using both “stamp” and “seal” in the language. Both are used interchangeably in the NRS, but “stamp” is still used in statutes, which was confirmed by Mr Blaney. Chairman Kidd stated he doesn’t have issue with either but would like to see clarity added with a definition. Ms Mamola and Mr Mackenzie discussed where it’s most appropriate to make these clarifications (NRS or NAC.)

Ms Mamola explained that once the committee accepts the proposed changes, a special board meeting scheduled for February 23rd, will convene to adopt the changes with the committee’s recommendation. Ms Mamola and Mr MacKenzie discussed the importance of having the special board meeting. Board approval is required prior to the workshops being scheduled and the small business impact study needs to be completed as soon as possible. Also, if there are areas of concern by the board, more changes would be required which delays the process further.

Mr Wright asked if it’s possible to state in NAC 625.610 that the terms “stamp” and “seal” are synonymous in the eyes of the board and just use that single word rather than having to use both terms. Mr MacKenzie answered that there are regulations that refer to “seal” while NRS only refers to “stamp.” He said he could investigate a definition that would work on the regulatory side, but the statues are limited to “stamp” only. Ms Mamola asked if the committee wanted to hold up the process while the research is being done with possible wording changes requiring additional board approval. Mr MacKenzie stated the research and possible wording changes could be completed by the special board meeting.

b. Draft changes to advertising and offering services – NAC 625.630(1)-(3)

Ms Mamola described the proposed changes to the NAC. Chairman Kidd stated it looked good and asked if professional societies have offered their support. Ms Mamola answered that the members of the PAL council have no objections.

c. Draft changes to application for licensure – NAC 625.210(3) US Citizen or Right-to-Work

Ms Mamola stated that board counsel has some concerns, therefore, asked for this item to be tabled.

d. Coordinate possible changes by Nevada Association of Land Surveyors to NAC 625.651 – 625.795

Ms Mamola stated there are no proposed changes. Chairman Kidd asked if the changes would be the result of the workshops. Ms Mamola and Mr MacKenzie answered no, as the workshops are used to present the proposed changes. Ms Mamola suggested that if NALS identifies changes, the committee could accomplish these as a separate process as well as continuously reviewing and updating its own laws and regulations.

e. Draft changes to structural engineering limits of practice - NAC 625.260

Ms Mamola explained that Mr Wright took the lead on this item and received input from past board members Chris Roper and Ruedy Edgington as well as NDOT's (Nevada Department of Transportation) chief bridge engineer. Mr Wright added that Michael Levi, representing Structural Engineers Association of Southern Nevada (SEASoN) also provided feedback. Ms Mamola said Mr Blaney made changes to the language based on the input given. Mr Wright confirmed he was satisfied with the proposed changes.

f. Draft changes to contract requirements to add errors and omissions insurance disclosure - NAC 625.545

Ms Mamola reviewed the past discussions, where the consensus seemed to settle on requiring a disclosure in the requirement for contracts. Mr Blaney said that the question was whether to call it errors and omissions insurance or professional liability insurance. Ms Purcell said that the term "professional liability insurance" is used on 99 percent of the contracts she sees and recommends the same wording in this NAC. Chairman Kidd and Mr Wright both agreed.

Mr MacKenzie asked if the policy amount should be included. Ms Mamola answered no, that it would create issues. It was more important for engineering clients to know whether or not an engineer carried the insurance and the client could inquire the limits carried by the engineer. Smaller firms that do not do public agency work typically carry lower limits than larger firms working for public agencies.

Chairman Kidd reiterated the one minor change to use the term "professional liability", which Ms Mamola confirmed.

g. Consider other possible changes to NAC 625

Ms Mamola reviewed the changes and action items identified above.

3. Review of Nevada Revised Statutes chapter 625 for potential changes

Ms Mamola reminded the committee that although the NRS are somewhat linked to the NAC, these changes are being worked separately from the NRS changes. NRS changes require a different strategy and approach for making changes.

a. Draft changes to qualifications for licensure – NRS 625.183(1)(b) and 625.390(6) US Citizen or Right-to-Work

Mr MacKenzie mentioned that regulation changes would have to be made statutorily by convincing the legislature to drop the citizenship requirement for licensure. This was confirmed by Ms Mamola, whom also said Mr MacKenzie would need to provide guidance to determine if the changes were the right thing to do and would survive legislative scrutiny. Mr MacKenzie confirmed that lobbyists would need to determine the chance of legislative success to avoid jeopardizing other changes attached to the same bill.

Mr MacKenzie asked if any other states have abandoned citizenship requirements for licensure. Ms Mamola answered yes to residency requirements, but she was unsure of citizenship requirements. Mr Blaney said that due to NAFTA (the

North American Free Trade Agreement), Texas had an easier path to licensure for citizens of Mexico and Canada. Ms Mamola reiterated that time and effort is still needed to see what other states have done. The committee will be kept informed of progress on this item.

b. Draft changes to waiving requirements for licensure – NRS 625.203 and NRS 625.285

Ms Mamola said this is a house cleaning item, which just needs to be removed. It's a left-over from a previous change to the statute which should have also been removed.

c. Draft changes to qualifications for land surveyor intern and engineer intern – NRS 625.386 (1)(b) and (2)(b)

Ms Mamola said this is also a housekeeping item, to remove language that doesn't make sense. Again, this was a left-over from a previous change to the statute which should have also been removed.

d. Draft changes to full-time engineer or land surveyor in Nevada office – NRS 625.407(1)-(5)

Mr Wright identified a grammar correction that Ms Mamola will fix.

Ms Purcell, Mr Blaney and Ms Mamola discussed subsection 5b, originally stating it should remain, then correcting to it needing to be removed.

Mr MacKenzie made a wording suggestion for subsection 2, with Chairman Kidd and Mr Wright also suggesting changes for better clarity.

e. Draft changes to removing protection of term “engineer” – NRS 625.520(3)

Ms Mamola reviewed the changes. She identified them as important to avoid putting Nevada in a similar position to Oregon, by allowing a person to violate the law and identify themselves as a professional engineer without qualification. Chairman Kidd asked if this adds the clarity required or if something else is needed. Mr MacKenzie suggested referencing NRS 625.175, the statute which gives the board the authority to recognize disciplines.

Ms Purcell asked if this would change the abbreviation after a name (PE for Professional Engineer for example.) Mr Mackenzie answered this is only to prevent someone from adding a discipline (civil, electrical, etc.) to the title engineer when they are not licensed.

Ms Mamola explained that this is only for individuals and not companies. There are other NRSs used by the Secretary of State's office that govern corporate name request approval for companies wanting to use the term engineer.

f. Consider other possible changes to NRS 625

Ms Mamola said there was a change proposed by Mr MacKenzie to NRS 625.425 to add “privileged” to “confidential”, which would provide an additional level of protection in case of litigation. Mr Wright asked if that should be applied to the title as well, with Mr MacKenzie answering in the affirmative. Ms Mamola will make the changes.

Chairman Kidd announced he had a change to NRS 329 that had not been sent to the legislative committee and asked how to accomplish this. Mr MacKenzie answered that the board would need to be made aware any change was not vetted by this committee. Chairman Kidd said he would have it sent before the special meeting on the 15th of February, but Ms Mamola asked that it be sent to her sooner to ensure it gets included in the board packet. Ms Mamola asked if the changes would have a small business impact and Chairman Kidd answered that it may although he thinks small business will appreciate the change and any pushback may come from public agencies. Mr

MacKenzie said any potential small business impact must be disclosed and asked Chairman Kidd to coordinate this with Mr Blaney.

Mr MacKenzie asked for further discussion on NRS 625.520 (see item 3e above) and stated that this would in fact apply to companies that want to use a discipline in addition to the term “engineer” in the submitted name of the company (example: ABC Civil Engineering.) He said that this would provide clarification for purposes of review by the board. This allows the board the ability to deny for many reasons, to include misleading the public by practicing engineering or using the term “licensed professional engineer”, etc.

Ms Mamola discussed a change, requested by the board counsel, to NRS 625.460. The change adds the ability to issue a cease and desist order against a licensee, individual or firm. She said although the board has issued them in the past, there is nothing statutorily that gives that right.

4. Discuss strategy and schedule for moving forward with potential changes to NRS 625 and NAC 625

Ms Mamola talked about the schedule developed by board counsel. This schedule was reviewed and modified by Ms Mamola and Mr Blaney and will be available at the board meeting for feedback. Ms Mamola stated that ideally a few board members will attend the workshops to hear comments and facilitate discussion if necessary. Chairman Kidd asked in which capacity board members should attend and if multiple board members attending would be an issue. Ms Mamola stated it’s better for board members to represent the board as it’s a noticed, public meeting. However, the board cannot take action since it is only a workshop and not a board meeting.

5. Public Comment Period

Ms Mamola announced that Greg Phillips, NALS was in attendance. There were no public comments.

6. Adjourn

There being no further discussion, Chairman Kidd adjourned the meeting at 10:49 am on Wednesday, February 7, 2018.

Respectfully,

Patty Mamola
Executive Director