

**BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS AND LANDSCAPE ARCHITECTS**

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was posted to the State electronic calendar as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

Date: Tuesday, February 13, 2024

Time: 9:30 a.m.

Place: PVL Examination Room 330
HRH King Kalakaua Bldg., 3rd Floor
335 Merchant Street
Honolulu, Hawaii 96813

Present: Brian Fujiwara, Architect Member
Dan Hirota, Land Surveyor Member
Jay Ishibashi, Public Member
Joel Kurokawa, Landscape Architect Member
Howard Lau, Structural Engineer Member
Tony Lau, Civil Engineer Member
Jonathan Lucas, Architect Member
Clayton Pang, Electrical Engineer Member, Chair Pro Tem
Roberto Yumol, Architect Member

Members Excused: Janet Primiano, Public Member, Chair
Kevin Katayama, Mechanical Engineer Member, Vice Chair
Ken Ota, Public Member

Staff: Sheena Choy, Executive Officer ("EO Choy")
Christopher Leong, Deputy Attorney General ("DAG")
Cortnie Tanaka, Secretary

In-Person Guests: Daniel Chun, AIA Hawaii

Call to Order: The Chair Pro Tem took roll call of the Board members and excused the Chair, Vice Chair, and Mr. Ota.

There being a quorum, the Chair Pro Tem called the meeting to order at 9:33 a.m.

EO Choy stated that because the Chair and Vice Chair are excused from today's meeting, the Board needs to vote for a Chair Pro Tem.

Upon a motion by Mr. Howard Lau, seconded by Mr. Yumol, it was voted upon and unanimously carried to have Mr. Pang serve as Chair Pro Tem for today's meeting.

Chair's

Announcements:

Welcome to new Architect Board Member, Jonathan Lucas, Kauai County

The Chair Pro Tem welcomed Jonathan Lucas to the Board. Mr. Lucas will be serving an interim term as an architect member from Kauai County until he is confirmed by the Senate during the 2024 Hawaii State Legislative Session.

The Chair Pro Tem stated that he would like to re-order the agenda to next discuss agenda item #5 "2024 Legislation." The agenda will proceed in order after discussion of agenda item #5.

2024 Legislation:

Legislative Liaison(s)

EO Choy stated that she suggests the Board appoint legislative liaison(s) to advise the Executive Officer and present testimony before the legislature as needed.

Upon a motion by Mr. Hirota, seconded by Mr. Howard Lau, it was voted upon and unanimously carried to have the Vice Chair, Mr. Pang, Mr. Fujiwara, Mr. Howard Lau, and Mr. Tony Lau serve as legislative liaisons for the 2024 Legislative Session.

Legislation

EO Choy stated that there are 22 bills for the Board's consideration this legislative session. The Board can vote to "support," "oppose," or "appreciate the intent of" each bill.

Mr. Ishibashi arrived at 9:42 a.m.

H.B. 102 RELATING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

The purpose of the bill is to provide that a person having professional-level government employment performing lawful experience in review of engineered plans and calculations under the direct supervision of an applicably licensed engineer is eligible for licensure as a professional engineer.

This is a carryover bill from the 2023 session.

Upon a motion by Mr. Howard Lau, seconded by Mr. Tony Lau, it was voted upon, and unanimously carried to oppose this bill.

S.B. 212 RELATING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

This is the companion bill to H.B. 102.

Upon a motion by Mr. Howard Lau, seconded by Mr. Tony Lau, it was voted upon, and unanimously carried to oppose this bill.

H.B. 1241 RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL SURVEYORS.

The Board discussed this bill.

The purposes of this bill are to (1) authorize professional land surveyors and their assistants to enter private property to perform land surveying, subject to certain provisions; and (2) shield land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties.

This is a carryover bill from the 2023 session. Its companion S.B. 1468 was passed into law in 2023 as Act 209.

Upon a motion by Mr. Hirota, seconded by Mr. Fujiwara, it was voted upon, and unanimously carried to track this bill.

H.B. 1632 RELATING TO HOUSING

The Board discussed this bill.

The purpose of this bill is to require the counties to adopt an ordinance allowing licensed architects and professional engineers to self-certify that plans accompanying a building permit application are in compliance with all applicable state and county building codes.

Upon a motion by Mr. Hirota, seconded by Mr. Howard Lau, it was voted upon, and unanimously carried to track this bill.

H.B. 1758 RELATING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

The purpose of this bill is to clarify that plan review of electrical, plumbing, and building plans, is considered lawful experience in engineering work.

EO Choy stated that the bill would allow 100% “plan review of electrical, plumbing, and building plans” to qualify an individual for PE licensure. EO Choy noted that currently, the scope of work for a licensed engineer in Hawaii is authorized by HRS §464-1:

§464-1 Definitions. "Professional engineer" means a person who holds oneself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, or observation of construction or operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of engineering principles and data.

Mr. Tony Lau stated that it is important that individuals understand how to apply codes and why. For example, he stated that for a water line, the code requires that there is a restraining block at every bend to ensure that the pipe does not fly off when under pressure. If you know the code, you only know that a block is required, but you will not necessarily be able to tell if the block is designed correctly and why certain geotechnical specifications are necessary to ensure the pipe does not burst under an anomaly situation. Additionally, in construction observation, if something is not working, if you do not understand engineering calculations, you won't know how to fix any problems that might arise. This is a consumer health, safety, and welfare concern.

Mr. Howard Lau offered a structural engineering example. He stated that in the design of a 1,200 square foot residence, a plan reviewer would only know how to check if there are uplift connectors anchoring the roof to the foundation. However, without additional experience, an individual wouldn't know how to determine which wind forces within the building to consider for selecting the appropriate safety connector for the plans.

Mr. Pang stated that the interpretation of the code might also not benefit a homeowner. For example, electrical code could be interpreted to require plans to consider that every single disposal and microwave in the residence is operating 100% of the time. Interpreting the code in this way drives up the cost of construction for the consumer. Without understanding the reasoning behind the codes, the practical application becomes unclear. Mr. Pang also noted that it is important for individuals to have diverse experience. For example, observation of construction allows an individual to learn and understand if the plans and specifications of a design comply with code.

Mr. Yumol stated that an individual reviewing plans did not necessarily do or know how to do the engineering calculations that led to the design or code compliance.

Mr. Kurokawa stated that the designer takes on the full liability of the plans or design when they stamp and seal.

Mr. Hirota questioned why the bill only addresses electrical, plumbing, and building plan review when the board is a discipline-specific board that licenses nine different PE disciplines.

Mr. Fujiwara asked what the actual responsibility of a plan reviewer entails – are they only checking for code compliance or are they reviewing and correcting calculations.

Upon a motion by Mr. Yumol, seconded by Mr. Tony Lau, it was voted upon, and unanimously carried to oppose this bill.

H.B. 2118 RELATING TO CONSTRUCTION

The Board discussed this bill.

The purposes of this bill are to (1) remove state-related construction projects from the permitting requirements of the counties; (2) establish a permitting process and division within the Department of Accounting and General Services and appropriate funds.

Upon a motion by Mr. Yumol, seconded by Mr. Lucas, it was voted upon, and unanimously carried to track this bill.

H.B. 2148 REALTING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

The purpose of this bill is to establish a statute of repose for land surveyors, after which time a complaint cannot be made.

Upon a motion by Mr. Hirota, seconded by Mr. Howard Lau, it was voted upon, and unanimously carried to offer comments on this bill noting that the current language seems to narrow the Board's ability to take action against a licensee.

S.B. 3233 RELATING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

This is the companion bill to H.B. 2148.

Upon a motion by Mr. Hirota, seconded by Mr. Howard Lau, it was voted upon, and unanimously carried to offer comments on this bill noting that the current language seems to narrow the Board's ability to take action against a licensee.

H.B. 2195 RELATING TO BUSINESS INDUSTRY PROFESSIONALS

EO Choy reported that this bill was deferred by CPC on 2/8/2024.

The purposes of this bill are to (1) repeal the discretion for public officials to require work in respect to any structure or improvement, regardless of the cost valuation of the work, to be subject to the requirements of professional engineers, architects, surveyors, and landscape architects licensing laws; and (2) maintain that work in respect to structures within special management areas, flood hazard areas, and special design districts and in respect to improvements resulting from conditional use or other discretionary zoning permits, code compliances or variances, and building permit expediting procedures, are subject to the licensing laws.

H.B. 2614 RELATING TO RENEWABLE ENERGY

The Board discussed this bill.

The purposes of this bill are to (1) require government entities in the State that issue building permits to implement SolarAPP+ or a functionally equivalent online automated permitting platform that verifies code compliance and issues permits to licensed contractors for solar distributed energy resource systems in real-time by January 1, 2025; and (2) require government entities in the State that issue building permits in areas served by an investor-owned electric utility to adopt a self-certification process for solar distributed energy resource systems that are not SolarAPP+ compatible.

Upon a motion by Mr. Howard Lau, seconded by Mr. Yumol, a roll call vote was taken with Mr. Fujiwara, Mr. Hirota, Mr. Kurokawa, Mr. Howard Lau, Mr. Tony Lau, Mr. Lucas, Mr. Pang, and Mr. Yumol voting “aye” and Mr. Ishibashi abstaining to offer comments on this bill noting the importance of a final inspection for consumer safety, and that engineers and architects should not be installing renewal energy systems as it is outside their authorized scope of work.

S.B. 2539 RELATING TO RENEWABLE ENERGY

The Board discussed this bill.

This is the companion bill to H.B. 2614.

Upon a motion by Mr. Howard Lau, seconded by Mr. Yumol, a roll call vote was taken with Mr. Fujiwara, Mr. Hirota, Mr. Kurokawa, Mr. Howard Lau, Mr. Tony Lau, Mr. Lucas, Mr. Pang, and Mr. Yumol voting “aye” and Mr. Ishibashi abstaining to offer comments on this bill noting the importance of a final inspection for consumer safety, and that engineers and architects

should not be installing renewal energy systems as it is outside their authorized scope of work.

S.B. 499 RELATING TO PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

The Board discussed this bill.

This is a carryover bill from the 2023 session.

Upon a motion by Mr. Tony Lau, seconded by Mr. Yumol, it was voted upon, and unanimously carried to offer comments on this bill noting that the Board does not believe the amendments proposed by this measure are necessary because it currently already has the legal authority to request necessary documentation from and take action against a licensee in such instances pursuant to HRS §436B-12 and HRS §436B-19.

H.B. 320 RELATING TO PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

The Board discussed this bill.

This is the companion bill to S.B. 499.

Upon a motion by Mr. Tony Lau, seconded by Mr. Yumol, it was voted upon, and unanimously carried to offer comments on this bill noting that the Board does not believe the amendments proposed by this measure are necessary because it currently already has the legal authority to request necessary documentation from and take action against a licensee in such instances pursuant to HRS §436B-12 and HRS §436B-19.

S.B. 781 RELATING TO RENEWABLE ENERGY

The Board discussed this bill.

The purposes of this bill are to (1) require government entities in the State that issue building permits to implement SolarAPP+ or a functionally equivalent online automated permitting platform that verifies code compliance and issues permits to licensed contractors for solar distributed energy resource systems in real time by January 1, 2024; (2) require government entities in the State that issue building permits in territories served by an investor-owned electric utility to adopt self-certification for residential and commercial on-site solar distributed energy resource systems that are not SolarAPP+ compatible; and (3) make the professional engineers, architects, surveyors, and landscape architects licensure law inapplicable to work with respect to residential distributed energy resource systems.

Upon a motion by Mr. Fujiwara, seconded by Mr. Lucas it was voted upon, and unanimously carried to track this bill.

H.B. 195 RELATING TO RENEWABLE ENERGY

The Board discussed this bill.

This is the companion bill to S.B. 781.

Upon a motion by Mr. Fujiwara, seconded by Mr. Lucas it was voted upon, and unanimously carried to track this bill.

S.B. 847 RELATING TO PROFESSIONAL ENGINEERS

The Board discussed this bill.

This is a carryover bill from the 2023 session.

The purpose of this bill is to allow a person to be eligible for a license as a professional engineer if the person has completed four years of full-time or equivalent part-time professional level government employment performing lawful experience in review of engineered plans and calculations under the direct supervision of an applicably licensed engineer.

Upon a motion by Mr. Fujiwara, seconded by Mr. Lucas, it was voted upon, and unanimously carried to oppose this bill.

S.B. 1448 RELATING TO THE STATE BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

The Board discussed this bill.

This is a carryover bill from the 2023 session.

The purposes of this bill are to (1) increase the number of members composing the State Board of Professional Engineers, Architects, Surveyors, and Landscape Architects from fourteen to sixteen members; and (2) require one member to have at least five years of experience as an employee of a government agency.

Upon a motion by Mr. Lucas, seconded by Mr. Yumol, it was voted upon, and unanimously carried to oppose this bill.

S.B. 1461 RELATING TO BUILDING INDUSTRY PROFESSIONALS

The Board discussed this bill.

The purposes of this bill are to: (1) amend the exemption from the requirement that plans and specifications for construction projects be prepared, and construction observed by a licensed engineer, architect, or landscape architect to be determined by floor area of work rather than estimated cost; and (2) exempt one- or two-storied structures that are used primarily as a residence from such requirements.

EO Choy stated that this is a carryover bill from the 2023 session. Its companion, H.B. 924, was passed into law by Act 177 and changed the dollar amount exemptions allowed in HRS 464-13. In its current form, S.B. 1461 proposes to determine exemptions by floor area of work rather than estimated cost.

Mr. Chun raised his hand and was invited to share oral testimony in-person.

Mr. Chun introduced himself as the legislative lobbyist for the American Institute of Architects (“AIA”) Honolulu since the 1990s. He stated that AIA Honolulu is strongly opposed to S.B. 1461 and believes such bills overturn nearly 100 years of Hawaii legislative intent whereby exemptions are intended for small-scale projects like renovations; not for entire buildings.

Mr. Chun stated that AIA Honolulu’s reasons for opposing the bill are as follows:

1. Lengthy time for counties to issue building permits, while attributable to several factors, will be aggravated by passage of S.B. 1461. Generally speaking, longer permit review times are associated with non-professional drawings.
2. A number of 2024 bills currently propose requiring counties to accept architect self-certification of house permit plans, while S.B. 1461 is going in “opposite direction” by removing professional oversight those bills seek to rely upon.
3. Bills of this type often claim that removing architect oversight is no problem because building code governs minimum requirements. This is short-sighted because drawing house plans is only the first phase for what is most expensive purchase most families will make. The house must then be constructed. Architects perform valuable consumer protection by soliciting competitive prices followed by review of contractor’s work. The county inspects for electrical and plumbing work, but architects perform special inspection for termite treatment, structural resistance against hurricanes, fire-resistance and thermal insulation for energy conservation.
4. Mass-produced houses are bought after completion by developers and architects as “third-party observers” assure a buyer enhanced consumer protection. While most contractors are reputable, S.B. 1461 has no protection against unscrupulous or unintentionally-deficient construction.

Hence HRS 464-13 requires permanent recording at State Bureau of Conveyances whenever the exemption is used.

5. Some bill supporters cite licensing laws of other states, but there is reason for design professionals to be regulated on state-by-state basis. Hawaii is the state most prone to variety of natural disasters. Our civil defense concept relies on “sheltering in place” because of dead-end state highways, one-lane bridges and other features that practically make houses the best possible place for shelter.

Finally, Mr. Chun noted that HRS 464-13 was updated during the 2023 session with new dollar exemption values by Act 177 - only about seven months ago. He stated that now is not the time for legislature to again advance an exemption bill.

The Chair Pro Tem asked if there were any questions for Mr. Chun, or any board discussion.

Mr. Fujiwara stated that determining the exemptions based on floor area of work instead of a dollar amount seems inappropriate. He noted that 1,200 square feet is the size of a single-family home, with two to three bedrooms.

Mr. Hirota stated that the purpose of determining exemptions based on floor area of work instead of dollar amount could be trying to mitigate the effects of inflation or rising construction costs.

Mr. Howard Lau stated that he has concerns with this bill because the square footage exemptions proposed would allow for the construction of a residence, which involves a lot of structural engineering work. Although buildings, structures or residences in which the principal structural members consist of reinforced concrete or structural steel are not exempt, this still allows for residences with wooden frames to be exempt. Mr. Howard Lau stated that he estimates about 95% of homes in Hawaii are not reinforced concrete or structural steel at the square footage sizes proposed in this bill. He also noted that after hurricanes Iwa and Iniki, a lot of the 1,200 square foot sized homes were blown away because they were not engineered.

Upon a motion by Mr. Fujiwara, seconded by Mr. Lucas, it was voted upon, and unanimously carried to oppose this bill.

H.B. 924 RELATING TO BUILDING INDUSTRY PROFESSIONALS

The Board discussed this bill.

This is the companion bill to S.B. 1461.

Upon a motion by Mr. Fujiwara, seconded by Mr. Lucas, it was voted upon, and unanimously carried to oppose this bill.

S.B. 1523 RELATING TO THE STATE BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

The Board discussed this bill.

This is a carryover bill from the 2023 session.

The purpose of this bill is to require the State Board of Professional Engineers, Architects, Surveyors and Landscape Architects to, upon its denial of an application for licensure, provide the applicant with a written notice of denial accompanied by a written explanation describing the reasons for the Board's denial.

Upon a motion by Mr. Tony Lau, seconded by Mr. Fujiwara, it was voted upon, and unanimously carried to offer comments on this bill, noting that the proposed amendments seem unnecessary as the Board is already required to issue written notice of denial pursuant to HRS §436B-9(a)(2) and HAR §16-115-12.

S.B. 2042 RELATING TO HOUSING

The Board discussed this bill.

The purpose of this bill is to require counties to grant building permits within sixty days if the application is stamped and certified by a licensed engineer and architect and other certain conditions are met.

Upon a motion by Mr. Howard Lau, seconded by Mr. Tony Lau, it was voted upon, and unanimously carried to track this bill.

S.B. 2697 RELATING TO PROFESSIONAL LICENSURE

The Board discussed this bill.

Upon a motion by Mr. Howard Lau, seconded by Mr. Kurokawa, it was voted upon, and unanimously carried to offer comments on this bill noting that:

- 1) If the intent of the bill is to grant the Board the authority to revoke architect licenses, it already has the authority to do so pursuant to HRS §464-10; HAR §16-115-10(5) further provides for clarification of what constitutes "misconduct in the practice;"
- 2) The proposed amendments reference the Department of Commerce and Consumer Affairs ("DCCA"), but it is the Board, not DCCA, that has the authority to act on licenses; and

- 3) Clarification is requested regarding the language on page 3, lines 1 to 6 and the Board suggests that more general language be used if the intent is to address bribery at large.

The Chair Pro Tem announced the next agenda item.

Approval of
Minutes:

Approval of the Minutes of the December 14, 2023 meeting

The Chair Pro Tem asked if there were any corrections to or discussion of the open session or executive session minutes for the December 14, 2023 meeting.

There was none.

Upon a motion by Mr. Fujiwara, seconded by the Mr. Ishibashi, it was voted on and unanimously carried to approve the open session minutes of the December 14, 2023 meeting.

Upon a motion by Mr. Tony Lau, seconded by Mr. Yumol, it was voted on and unanimously carried to approve the executive session minutes of the December 14, 2023 meeting.

Applications:

Ratification Lists

Upon a motion by Mr. Tony Lau, seconded by Mr. Fujiwara. it was voted on and unanimously carried to approve the attached ratification list.

Recommendations from Application Review Committees

Upon a motion by Mr. Howard Lau, seconded by Mr. Fujiwara, it was voted on and unanimously carried to approve the recommendations from the following Application Review Committees:

- 1) Professional Engineer Committee
- 2) Professional Architect Committee
- 3) Professional Surveyor Committee
- 4) Professional Landscape Architect Committee

The Chair Pro Tem asked for a motion to enter into executive session in accordance with HRS §92-4 and §92-5(a)(1) and (4) "To consider and evaluate personal information relating to individuals applying for licensure;" and "To consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities;"

Executive Session:

At 10:25 a.m. upon a motion by Mr. Fujiwara, seconded by Mr. Tony Lau, it was voted on and unanimously carried to enter into executive session.

At 10:35 a.m., upon a motion by Mr. Howard Lau, seconded by Mr. Tony Lau, it was voted on and unanimously carried to move out of executive session.

The Chair Pro Tem summarized that in Executive Session, the Board considered and evaluated personal information relating to individuals applying for licensure and consulted with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities. The Board will now vote in Open Session.

Engineer Applications

Ryan Hales

Upon a motion by Mr. Tony Lau, seconded by Mr. Lucas, it was voted on and unanimously carried to approve the application for Mr. Hales

David Kornacki

Upon a motion by Mr. Howard Lau, seconded by Mr. Tony Lau, it was voted on and unanimously carried to approve the application for Mr. Kornacki.

Executive Officer's Report:

2024 EASLA License Renewal FAQs posted on website

EO Choy stated that all EASLA licenses will expire on April 30, 2024. Pursuant to HRS §464-9, all EASLA licenses must be renewed by April 30 of every even-numbered year, regardless of when the licensee was licensed.

EO Choy reported that a renewals FAQs document was posted on the Board's website, including Continuing Education ("CE") requirements for architect licensees: <https://cca.hawaii.gov/pvl/boards/engineer/>.

Although a reminder postcard will be sent to the licensees' mailing address on file, it is ultimately each licensee's responsibility to renew their license in a timely manner.

Information of the Land Surveyor Hawaii Description Writings State Exam proctoring transition to PSI, Inc. posted on the Board's website

EO Choy reminded the Board that the Land Surveyor Hawaii Description Writings State Exam proctoring transitioned to PSI, Inc. effective December 20, 2023. Information about the transition is available on the Board's website, including how to access the Candidate Information Bulletin: https://cca.hawaii.gov/pvl/news-releases/easla_announcements/.

Next Meeting:

Date: **April 11, 2024**
Time: 10:00 a.m.
Location: King Kalakaua Conference Room
King Kalakaua Building, 1st Floor

335 Merchant Street
Honolulu, Hawaii 96813

Adjournment: There being no further business, the Chair Pro Tem adjourned the meeting
at 10:48 a.m.

Taken and Reviewed by:

/s/ Sheena Choy

Sheena Choy
Executive Officer

04/01/24

Minutes approved as is.

Minutes approved with changes; see minutes _____.

