



#621
August 21, 2018

Report to the Mississippi Legislature

A Review of the Board of Licensure for Professional Engineers and Surveyors



PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

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August 21, 2018

Honorable Phil Bryant, Governor
Honorable Tate Reeves, Lieutenant Governor
Honorable Philip Gunn, Speaker of the House
Members of the Mississippi State Legislature

On August 21, 2018, the PEER Committee authorized release of the report titled *A Review of the Board of Licensure for Professional Engineers and Surveyors*.

A handwritten signature in cursive script that reads "Videt Carmichael".

Senator Videt Carmichael, Chair

This report does not recommend increased funding or additional staff.

A Review of the Board of Licensure for Professional Engineers and Surveyors

Executive Summary

Introduction

The Board of Licensure for Professional Engineers and Surveyors requested a review of the agency's operations and management over concerns about improving efficiency and the board's desire to maintain the effectiveness needed to fulfill its statutory requirements.

Background

The Mississippi Legislature established the Board of Registration for Professional Engineers and Land Surveyors to safeguard life, health, and property, and to promote public welfare. The board has nine members: six professional engineers (three of whom are dually licensed as surveyors) and three professional surveyors. Five staff members—Executive Director, Deputy Director, Licensing Special Investigator, and two Administrative Assistants—support board operations.

A special fund agency, the board generates revenue from fees for license renewal, licensure applications, and examinations. The board has maintained, for the majority of FY 2015–FY 2017, a stable financial condition. Exhibit A presents the revenues, expenditures, and other transfers for the board's Special Treasury Fund.

Exhibit A: FY 2015 through FY 2017 Revenues and Expenditures of the Board of Licensure for Professional Engineers and Surveyors

	FY 2015	FY 2016*	FY 2017*
Special Fund Revenue	\$594,360	\$553,303	\$575,190
Total Expenditures	\$535,455	\$514,767	\$453,180
External Transfers*	---	\$498,666	\$500,000

*In FY 2016, the board transferred approximately \$500,000 to state universities and community colleges as part of a grant program authorized by the Legislature, and in FY 2017 the Legislature authorized a transfer to the Capital Expense Fund.

SOURCE: FY 2015–2019 board budget requests.

From FY 2015 through FY 2018, the board annually issued more than 13,000 licenses and certificates of authority to engineers, surveyors, and firms—more than 10,000 of those to engineers. Exhibit B lists the number of licenses issued in each category from FY 2015 to FY 2018.

Exhibit B: Number of Licensees from FY 2015 to FY 2018

Year	Number of Engineer Firm COAs*	Number of Professional Engineers	Number of Surveyor Firm COAs*	Number of Professional Surveyors
FY 2015	1,764	10,272	368	1,093
FY 2016	2,053	10,517	360	1,080
FY 2017	2,217	10,493	381	1,048
FY 2018	2,269	10,081	369	985

*Certificates of Authority, which are issued to firms rather than individuals.

SOURCE: Rosters of Professional Engineers, Surveyors, and Firms.

Does the board comply with relevant statutes for licensing and regulating the engineering and surveying professions?

Based on review of a sample of applications, the board currently meets the statutory requirements for licensing individuals and firms.

Licensure

CODE sections and board rules and regulations set specific procedures, education requirements, and experience requirements with which licensees must comply to become licensed as a professional engineer or surveyor in Mississippi. Additionally, the board provides the two paths for licensure as a professional engineer and/or surveyor: initial licensure and comity licensure (a courtesy extended to professional engineers and surveyors licensed in other states).

Procedures for application review by agency staff and final review by the board are currently performed in a manner facilitating fulfillment of statutory obligations regarding licensing. Board and staff ensure that applicants comply with state law and board rules and regulations for submissions, and the board approves only those applicants who fully comply with licensure requirements.

Regulation

Review of the board's investigative files indicated that the board's method for conducting investigations and disciplinary proceedings complies with state law. The board issued a fine in 58 out of 68 disciplinary investigations (85%) completed between FY 2015 and

FY 2017. Despite the lack of a set policy, the board equitably imposed fines during the years examined.

Is the board in compliance with statutes regulating its own behavior?

Over approximately a two-year period, board administrative and personnel policy failed to comply with state law for staffing, leave, and deposits.

Noncompliance with Statutes Regarding State Office Staffing

During the period reviewed, the board office regularly closed before 5 p.m., which is a violation of state law. MISS. CODE ANN. § 25-1-98 (1972) states that all state offices shall be open and staffed for the normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday through Friday, except on legal holidays.

Time cards reviewed from May and September of 2014, 2015, 2016, and 2017 document 90.25 hours of staff time out of office on Fridays because of early closure (see Exhibit C).

Exhibit C: Friday Early Office Leave and Closures

	May 2014	September 2014	May 2015	September 2015	May 2016	Total
Total Staff Hours Lost on Fridays*	14.5	26.75	16.25	18.75	14	90.25

*All months are cumulative for four employees, excluding the former and current Executive Directors. It should be noted that the former Executive Director was under contract for a reduced schedule and left the office prior to the statutorily mandated closing time only after completing the agreed-upon weekly hours.

SOURCE: Staff time cards.

Noncompliance with Statutes Regarding Administrative Leave

At the direction of the former Executive Director, and with the consent of the former board president, agency staff (excluding the Executive Director) received paid days off from work—coded as administrative leave—for purposes outside those allowable by state law (MISS. CODE ANN. § 25-3-92). From the eight months reviewed, five months (May and September 2014, May and September 2015, and May 2016) provide evidence of a total of 33 days of administrative leave taken. Staff members each received one day of discretionary administrative leave per month, in addition to birthday and work anniversary.

Noncompliance with Statutes Regarding Timely Deposits of Funds

In a randomly selected sample of 50 accounting transactions (25 online from November FY 2017 (during the middle of renewal season) and 25 paper transactions compiled from each month of FY 2017 with three from November), PEER found that, although the board complied with timely deposit laws and regulations for

the receipt of online transactions, in two out of 25 instances (8%), the board did not comply with state law and regulations regarding timely deposits of paper checks within a week of receipt. In both instances 10 days transpired between the time the check was entered into the board's database and the time it was deposited into the clearing account. This compares to an average time span from receipt to deposit of 3.4 days for the 23 compliant transactions.

Is the board operating in the most efficient manner?

The board does not operate in the most effective manner with regard to using the state's Licensing and Reporting System (LARS) to its full capacity, tracking continuing education, maintaining a user-friendly website, disseminating board information and updating staff duties internally, and remaining current with licensing practices of peer boards.

Use of Technology in Daily Operations

Although the board's current system for tracking continuing professional competency is not in violation of state law, it is inadequate in determining whether licensees are obtaining the necessary CPC hours and fails to make use of existing technology within LARS to track CPC and maintain records.

The board's website design hinders ease of use, reduces navigability, and fails to provide convenient access to high-priority information (e.g., board newsletters, staff contacts, the complaint process), potentially limiting licensee and/or public use of the site as a resource.

In addition, board reluctance to transition to paperless or paper-limited board meetings and investigative case files is inefficient and wasteful of resources.

Clearly Defined and Up-to-Date Staff Duties

Staff members' job descriptions have not been updated since August of 2014. Although staff members generally understand their roles—either from their tenure or as set by the Executive Director—a lack of clarification in and updates to internal documents may lead to ambiguity, which can jeopardize board operations.

Fulfillment of Licensing Responsibilities

In accordance with MISS. CODE ANN. § 73-13-31 (1972), the board currently employs an annual renewal cycle, which results in heavy annual workloads for the board's staff. In contrast, surrounding state boards employ biennial renewal cycles, which have the potential to reduce heavy workloads on staff during renewal periods and lessen the burden on licensees.

During the annual renewal cycle of calendar year 2018, the board and its staff could face renewal of 13,704 licensees and certificates

of authority (issued to firms) should all licensees from fiscal year 2018 renew. By employing an annual renewal cycle, the board is simply following requirements, as prescribed in CODE but is at risk of falling behind the practices of peer boards and creating an undue burden on its licensees and staff.

Issues Related to Agency Working Environment

Over the course of PEER's review of the Board of Licensure for Professional Engineers and Surveyors, it became evident that the agency is operating with personnel conflicts that may jeopardize the future ability of the board to fulfill its statutory obligations.

Through interviews with board members and agency staff, PEER determined that the relationships between board members, the Executive Director, and the staff do not reflect the characteristics of good working relationships. Specifically, there is a lack of trust and mutual respect between board members and agency staff.

Board members acknowledged to PEER that there are less-than-ideal working relationships between the board, the Executive Director, and the administrative staff. The board members' desire is to address the relationship issues so that the agency can operate at optimal efficiency.

Recommendations

1. In conjunction with the Board of Architecture, the Board of Licensure for Professional Engineers and Surveyors should encourage its representatives on the jurisdictional joint committee (see page 9) to conclude their work as expeditiously as possible. When the work is completed, each board should disseminate to its licensees relevant guidance or work products designed to address issues that caused jurisdictional confusion in the past.
2. Although the board equitably imposed fines on licensees who had been noncompliant with rules and regulations during the period reviewed by PEER, the board should develop a disciplinary manual or matrix that outlines when board members should impose fines and the amounts to be imposed for specific infractions.
3. Board members should ensure that the agency's Executive Director and administrative staff consistently adhere to MISS. CODE ANN. § 25-1-98 regarding the operating hours required of state offices.
4. With regard to the agency's improper use of administrative leave, board members should conduct an internal review and determine the number of hours of administrative leave granted improperly to each employee and subtract such amounts from each employee's current personal leave balance. Board members should also request the Office of the State Auditor to include a comprehensive review of the agency's leave records in the Auditor's next fiscal audit of the agency to

identify any other improper awarding of administrative leave for periods not reviewed by PEER.

Because salaried employees, such as the board's administrative staff, are expected to complete their assigned jobs, regardless of the time it takes to fulfill their responsibilities, the use of a time clock is not necessary for salaried employees. The board should evaluate its current methods for documenting time worked by agency employees to ensure time accountability and compliance with state leave laws.

5. Board members should ensure that the Executive Director and administrative staff consistently comply with MISS. CODE ANN. § 7-9-21 (1972) regarding timely deposits of funds received by the agency. The Executive Director should ensure that staff are cross-trained so that deposits can be made on time when the primary employee responsible for making such deposits is absent from the office.
6. In order to achieve maximum technological efficiency in the operations of the agency, the board should consult with the Department of Information Technology Services (ITS) and request that ITS provide training to agency staff regarding the use and capabilities of the Licensing and Reporting System (LARS). The agency's Executive Director should undergo extensive training with ITS in order to serve as the agency contact with other staff for remedying issues that arise during staff interaction with the LARS database.
7. Because of the importance of continuing professional competency (CPC) in maintaining professional capabilities and ensuring public safety, agency staff should utilize the CPC tracking capabilities of LARS to ensure that all licensees annually obtain and document their required continuing professional competency credits. In cases in which licensees do not comply with the annual CPC requirement, the board should consider suspending the licenses of such practitioners until they become current with their CPC credits.
8. The agency's Executive Director should consult with ITS's contractor, Mississippi Interactive, in an effort to improve the navigation and user-friendliness of the agency's website. Improvements such as an expanded top navigation bar with direct access to a listing of fees, staff contact information, and newsletters (the board's primary method of communication with its licensees) should be considered in order to increase transparency and access to vital information.
9. In consultation with board members and ITS staff, the agency's Executive Director should continue exploring electronic methods to provide board meeting information and investigative files to board members.
10. In consultation with State Personnel Board staff, board members and the agency's Executive Director should conduct desk audits in order to update each employee's position description to reflect the current activities of the employees.

In addition, the board should form a committee to analyze the current responsibilities of the Executive Director, update the Executive Director's position description, and specify the responsibilities on which the Executive Director's performance will be evaluated.

11. The Legislature should consider amending MISS. CODE ANN. § 73-13-31 to allow the board to institute a biennial renewal cycle to maximize efficiency and lessen staff burden during the current annual October-December renewal period.
12. The board should continue monitoring the national trend of decoupling the examination and experience requirements for becoming a licensed engineer. The board should also consult with states that have implemented the decoupling concept to determine any efficiencies gained by practitioners or agency operations from such implementation.
13. Regarding issues related to the agency's working environment, the board should
 - require all agency staff to participate in the following courses offered by the State Personnel Board:
 - “Workplace Collaboration”
 - “Crucial Conversations”
 - require the Executive Director to participate in the following courses offered by the State Personnel Board and the Council on Licensure, Enforcement and Regulation:
 - “Overcoming the Five Dysfunctions of a Team”
 - “The Basic Supervisory Course”
 - “The Executive Leadership Program for Regulators”
 - seek mediation assistance from a human resources or counseling professional in order to provide leadership coaching and relationship-building skills.

If such efforts are not successful in addressing the working environment issues, the board should consider taking personnel actions to improve the agency's work environment and ensure the agency's sustainability.

For more information or clarification, contact:

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