

**MINUTES OF THE
LOUISIANA ENGINEERS SELECTION BOARD
February 5, 2019**

A meeting of the Louisiana Engineers Selection Board (LESB) was held in the Claiborne Building, 1201 North Third Street, Room 1-153, Baton Rouge, Louisiana on Tuesday, February 5, 2019.

The meeting was called to order at 11:03 a.m. by Mr. Ali Mustapha, Chairman. Those members present were: Mr. Mark Moses, Mr. Ali Mustapha, Mr. Bren Kramer and Mr. Lloyd Hoover. Those members absent were Mr. Jim Ferguson. Also present as Legal Counsel was Ms. Candice Rodgers Hillman, Attorney General's Office.

The first item of business was the approval of the November 27, 2018 minutes. Mr. Kramer moved to adopt the minutes; it was seconded by Mr. Hoover. With no opposition, the November 27, 2018 minutes were accepted.

The next item of business was new business. Copies of the Proposed Rule Changes with the Board's Comments were reviewed.

Comment by Mr. Mustapha regarding §309 (G) and the amount of time a Board member may serve. Much conversation ensued. It is difficult to recruit Board members, particularly due to potential conflicts of interest regarding contracts and work for the firm/individual. Mr. Mustapha proposed setting a cap of 60 months rather than 24. Comment by Mr. Kramer regarding the connection of this rule to R.S. 38:2311 (B) and (C). He thinks it will be difficult to find people willing to serve due to the Board requirements. Also, this can create a problem regarding time limits on eligibility to receive agency contracts and to provide consulting services to firms receiving state agency contracts. Again, this would require a change in Title 38. It was suggested that the language in the rules be made to reference Title 38 so there would be no need for re-promulgation if they are successful in changing statute. Mr. Moses stated that this issue is also pertinent to the other two Boards and that they need to be alerted. Mr. Moses stated that he is aware of changes being made to Title 38, and it is possible that we may be able to include this change with one of the legislators.

Mr. Kramer went through each of his comments.

- Comment by B. Kramer regarding §305 (A), recommended changing "selection of services" to "selection of professional services"
- Comment by B. Kramer regarding the need to use the correct name of Consulting Engineers Council in §307 (B). It has changed and is incorrectly stated in Title 38. Ms. Hillman, stated that any changes to Title 38 would require legislative approval. Mr. Moses suggested rephrasing the sentence to include "the American Council of Engineering Companies of Louisiana (formerly known as Consulting Engineers Council)" throughout the rules.
- Comment by B. Kramer regarding the definition of total membership and a simple majority in §313 (B) and (C). It was agreed that this needs to be reworked. It was

questioned whether the quorum varies depending upon whether it is a special meeting with no projects, or a meeting with projects and a user.

- Comment by B. Kramer regarding §319 (A) and proxy votes. It was noted that the LLASB Board had discussed video conferencing and the legality of voting using that technology. Ms. Hillman is researching this issue.
- Comment by B. Kramer regarding §331 (A). The term “design service” should be defined more specifically. He suggested using language in accordance with RS 38:2312 et seq. He also questioned if a copy of the advertisement could be provided to ACEC/L and LES. Mr. Moses stated that the advertisement should be sent to each entity.
- Comment by B. Kramer regarding §335 (A). He is concerned about type of applicant with respect to requirements of RS 38:2310 et seq. that refer to “engineers” or “persons”. Ms. Hillman stated that legally the term “person” can be a real person or a firm. Mr. Moses said that this is a problem for all three Boards and that the language needs to be rephrased for clarity.
- Comment by B. Kramer regarding §335 (B.1) and the phrase “for submitting the firm’s experience”. It was decided to rephrase as “for submitting applications”.
- Comment by B. Kramer regarding §335 (B.3) and the definition of “principal” requiring sharing in profits and losses. Per Title 38, the term is “prime professional”.
- Comment by B. Kramer regarding §335 (E) and a concern over the definition of “available information”. After much discussion, it was decided that this section would be reviewed by Mr. Mark Gates (FP&C Assistant Director) and rephrased.
- Comment by B. Kramer regarding §337 (1). He feels that comments and recommendations provided by FP&C are helpful and that it should be a requirement.
- Comment by B. Kramer regarding §337 (2). He thinks that requiring the Board to discuss applications and user agency recommendations is good.
- Comment by B. Kramer regarding §337 (B)(3.b) should be changed to two applicants rather than one. Mr. Moses raised the issue that §337 (B) (3.a) and §337 (B) (3.b) are inconsistent with wording, ie shall vs. may. He stated that consistency is needed with all three Boards.
- Comment by B. Kramer regarding §338 (3) and the need to change the wording from “advertisement will contain” to “advertisement shall contain”. Mr. Moses said to use “shall contain”. Additionally, this section concerns the Interview Procedures for Special Projects, and a #d needs to be added stating that “The information is required by RS 38:2312 (A)” regarding Public Notification.

Mr. Kramer also had comments on Title 38, RS 38:2310 et seq:

- Comment by B. Kramer regarding RS 38:2310 (1) and the definition of “agency”. His concern is how state agencies, specifically CPRA, are exempted from going through the Selection Board process. Mr. Moses stated that years ago the projects went through HB1. In the past 6-7 years ago the projects were moved to HB2. Further, if it is designated in HB2, the project should go through the Selection Board process. Mr. Moses is unsure who enforces this. Ms. Hillman stated that her section represents CPRA. She is going to research this.
- Comment by B. Kramer regarding RS 38:2311 (A)(1.b). The section does not require specifically that the members be licensed engineers or members of engineering firms.

Ms. Kroll, Board Secretary, included pertinent information on comments from the Louisiana Architects Selection Board (January 29, 2019 meeting) and the Louisiana Landscape Architects Selection Board (January 30, 2019 meeting).

- It was noted that some section numbers are missing, ie §302. This is done deliberately. Ms. Kroll will note “Reserved” wherever that occurs.
- Comment from LASB meeting regarding standardization of language in §103 A on RS 38:2310 (2), 38:2310 (4) and 38:2310 (5) was explained, Ms. Candice Hillman, Legal Counsel, stated that any changes to Title 38 would require legislative approval. Mr. Moses is aware of some proposed changes to Title 38; he is going to check into this issue.
- Architect suggested changing the notation of “his/her” to “their” where it appears in the rules; Landscape thought “his/her” could remain. Proper grammar will be checked to determine which is correct.
- Mr. Kramer acknowledged that most of the comments/notations were self-explanatory.

Some discussion ensued on the proposed changes to the form. The Board members had not reviewed the proposed form or the instructions. It was noted that the form is not part of the promulgation, will need to be reviewed by three selection boards and can be revisited at a later meeting.

Mr. Moses moved that the Board accept the Proposed Rule Changes and allow FP&C to send to the next step of promulgation. It was seconded by Mr. Hoover. With no opposition, the motion passed. Mr. Mustapha requested that copies of the final Proposed Rule Changes be distributed to the Board prior to promulgation. Ms. Hillman requested that she be contacted if any additional research type work is needed. Mr. Moses stated that it would be approximately two weeks before all of the changes were incorporated and ready for promulgation.

The next item of business was to ask for any public comments. There was none.

This was an informational meeting only. There were no projects.

There being no further business, Mr. Kramer moved to adjourn the meeting. It was seconded by Mr. Hoover. There being no opposition, the meeting adjourned at 12:27 p.m.