



**VIRTUAL/TELECONFERENCE
RULES COMMITTEE
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS
Virtual, 4822 Madison Yards Way, Madison, WI
Contact: Valerie Payne (608) 266-2112
October 6, 2020**

The following agenda describes the issues that the Committee plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Committee.

AGENDA

1:00 PM

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes of April 21, 2020 (3-4)**
- C. Administrative Matters**
 - 1. Department, Staff and Committee Updates
- D. Legislation and Policy Matters – Discussion and Consideration**
- E. Administrative Rule Matters – Discussion and Consideration (5)**
 - 1. Preliminary Rule Draft – A-E 2 – General Procedures **(6-13)**
 - 2. Preliminary Rule Draft – A-E 8 – Professional Conduct **(14-17)**
 - 3. Preliminary Rule Draft – A-E 1 to 13 – Retired Credential Status **(18-26)**
 - 4. Final Draft Emergency Rule – A-E 1 to 13 – Retired Credential Status **(27-33)**
 - 5. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108 **(34-36)**
 - a. Review of 2019 Report
 - b. Proposals for 2021 Report
 - 6. Pending or Possible Rulemaking Projects
 - a. A-E Board Report: Administrative Rules and Legislative Update **(37-38)**
- F. Public Comments**

ADJOURNMENT

NEXT DATE: TBD

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**TELECONFERENCE/VIRTUAL
A-E RULES COMMITTEE
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS
MEETING MINUTES
APRIL 21, 2020**

PRESENT: Bruce Bowden, Michael Heberling, Steven Hook, Dennis Myers, Rosheen Styczinski

EXCUSED: Karl Linck, Steven Wagner

STAFF: Christian Albouras, Executive Director; Dale Kleven, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other DSPS staff

CALL TO ORDER

Rosheen Styczinski, Chairperson, called the meeting to order at 1:18 p.m. A quorum was confirmed with five (5) members present.

ADOPTION OF AGENDA

MOTION: Dennis Myers moved, seconded by Steven Hook, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 7, 2020

MOTION: Bruce Bowden moved, seconded by Michael Heberling, to adopt the Minutes from January 7, 2020 as published. Motion carried unanimously.

**PUBLIC HEARING: CLEARINGHOUSE RULE CR 20-009 – A-E 6 RELATING TO
PROFESSIONAL LAND SURVEYOR LICENSURE**

MOTION: Dennis Myers moved, seconded by Steven Hook, to accept all Clearinghouse comments for Clearinghouse Rule CR 20-009, relating to professional land surveyor licensure. Motion carried unanimously.

MOTION: Dennis Myers moved, seconded by Bruce Bowden, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule CR 20-009, relating to professional land surveyor licensure, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**PUBLIC HEARING: CLEARINGHOUSE RULE CR 20-014 – A-E 5 RELATING TO
DESIGNER PERMITS**

MOTION: Bruce Bowden moved, seconded by Michael Heberling, to reject Clearinghouse comment number(s) 5b, and to accept all remaining Clearinghouse comments for Clearinghouse Rule CR 20-014, relating to designer permits. Motion carried unanimously.

MOTION: Dennis Myers moved, seconded by Bruce Bowden, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule CR 20-014, relating to designer permits, for submission to the Governor's Office and Legislature. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Scope Statement for A-E 1 to 13, Relating to Retired Credential Status

MOTION: Dennis Myers moved, seconded by Bruce Bowden, to approve the Scope Statement revising A-E 1 to 13, relating to retired credential status, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Committee authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

MOTION: Steven Hook moved, seconded by Michael Heberling, that if the Board is directed under s. 227.136 (1), Stats., to hold a preliminary public hearing and comment period on the Scope Statement revising A-E 1 to 13, relating to retired credential status, the Chairperson is authorized to approve the notice required under s. 227.136 (2), Stats. Motion carried unanimously.

ADJOURNMENT

MOTION: Bruce Bowden moved, seconded by Michael Heberling, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:21 p.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 9/24/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Rules Committee of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors			
4) Meeting Date: 10/6/20	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Preliminary Rule Draft – A-E 2 – General Procedures 2. Preliminary Rule Draft – A-E 8 – Professional Conduct 3. Preliminary Rule Draft – A-E 1 to 13 – Retired Credential Status 4. Final Draft Emergency Rule – A-E 1 to 13 – Retired Credential Status 5. Schedule Public Hearing on Emergency and Permanent Rules – A-E 1 to 13 – Retired Credential Status 6. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108 a. Review of 2019 Report b. Proposals for 2021 Report 7. Pending or Possible Rulemaking Projects a. A-E Board Report: Administrative Rules and Legislative Update	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request <i>Dale Kleven</i>		Date <i>September 24, 2020</i>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND
SURVEYORS

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL	:	PROFESSIONAL LAND SURVEYORS
LAND SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to amend A-E 2.03 (1) (a) and (3) and 2.05 (1) and (2) (a) and (b); and to create A-E 2.06, relating to general procedures.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 440.09 and 443.015 (2), Stats.

Statutory authority:

Sections 15.08 (5) (b), 440.09 (5), and 443.015 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 440.09 (5), Stats., states that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Section 443.015 (2), Stats., provides that “[e]ach section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section.”

Related statute or rule:

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Plain language analysis:

The Board completed a comprehensive review of ch. A-E 2 to ensure the rules are current with standards of practice and consistent with statute. As a result, the following revisions have been made:

- The definition of “firm” in s. A-E 2.03 (1) (a) is updated to include a limited liability company or limited liability partnership located in Wisconsin that provides or offers to provide architectural, landscape architectural, professional engineering, design or professional land surveying services to the public.
- Section A-E 2.03 (3) is amended to clarify that it is upon request of the Board that a firm must provide notification of at least one resident who is in charge of and responsible for each separate business location.
- Section A-E 2.05 is updated to reflect that the applicable section of the Board makes determinations relating to the late renewal or reinstatement of a credential.
- Section A-E 2.06 is created to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:**Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation do not specify general requirements and procedures that apply to architects, engineers, and professional land surveyors. Instead, the rules separately specify requirements and procedures that apply to architects [68 Ill. Adm. Code 1150.10 to 1150.110], engineers [68 Ill. Adm. Code 1380.210 to 1380.325], and professional land surveyors [68 Ill. Adm. Code 1270.5 to 1270.65]. Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). “Service member” includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

The Iowa Administrative Code does not specify general requirements and procedures that apply to architects, engineers, professional land surveyors, and landscape architects. Instead, requirements and procedures for these professions are separately specified in rules of the Iowa Architectural Examining Board [193B IAC], Iowa Engineering and Land Surveying Examining Board [193C IAC], and Iowa Landscape Architectural Examining Board [193D IAC]. Iowa does not issue permits or similar credentials for designers of engineering systems.

Rules of the Professional Licensing and Regulation Bureau of the Iowa Department of Commerce provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (193 IAC 193.14.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs do not specify general requirements and procedures that apply to architects, professional engineers, professional land surveyors, and landscape architects. Instead, the rules separately specify requirements and procedures that apply to architects [Mich Admin Code, R 339.15101 to R 339.15506], professional engineers [Mich Admin Code, R 339.16001 to R 339.16044], professional land surveyors [Mich Admin Code, R 339.17101 to R 339.17506], and landscape architects [Mich Admin Code, R 339.19023 to R 339.19041]. Michigan does not issue permits or similar credentials for designers of engineering systems.

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

Rules of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design specify general requirements and procedures that apply to architects, engineers, land surveyors, and landscape architects [Minnesota Rules, parts 1800.0050 to 1800.0900]. Minnesota does not issue permits or similar credentials for designers of engineering systems.

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

Summary of factual data and analytical methodologies:

The proposed rules were developed by conducting a comprehensive review of the provisions of ch. A-E 2 and s. 440.09, Stats., as created by 2019 Wisconsin Act 143, and obtaining input and feedback from the Rules Committee of the A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. A-E 2.03 (1) (a) and (3) are amended to read:

A-E 2.03 (1) (a) “Firm” means any sole proprietorship, partnership, ~~or~~ corporation, limited liability company, or limited liability partnership located in ~~Wisconsin~~ this state which provides or offers to provide architectural, landscape architectural, professional engineering, design, or professional land surveying services to the public.

(3) NOTICE. ~~Every firm shall notify~~ Upon request from the board, a firm shall provide notification of at least one resident who is in charge of and responsible for each separate business location.

SECTION 2. A-E 2.05 (1) and (2) (a) and (b) are amended to read:

A-E 2.05 (1) If a licensee an individual who fails to renew ~~his or her~~ a credential by the established renewal date applies for renewal of the credential less than 5 years after its expiration, the credential shall be renewed upon payment of the renewal fee specified in s. 440.08, Stats.

(2) (a) If a licensee an individual applies for renewal of ~~his or her~~ a credential more than 5 years after its expiration, the applicable section of the board shall determine whether the applicant is competent to practice under the credential in this state. The inquiry shall include a review of the applicant's practice within the previous 5 years, if any, in other licensing jurisdictions.

(b) After inquiry, the applicable section of the board shall impose any reasonable conditions on reinstatement of the credential as the ~~board~~ section deems appropriate, including a requirement that the applicant complete any current requirement for original licensure.

SECTION 3. A-E 2.06 is created to read:

A-E 2.06 Reciprocal credentials for service members, former service members, and their spouses.

(1) In this section, “reciprocal credential” means all of the following:

- (a)** Registration as an architect.
- (b)** Registration as a landscape architect.

- (c) Registration as a professional engineer.
- (d) Certification as an engineer-in-training.
- (e) A license to engage in the practice of professional land surveying.
- (f) A permit as a designer of engineering systems.

(2) A reciprocal credential shall be granted to a service member, former service member, or the spouse of a service member or former service member who the appropriate section of the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the section may request verification necessary to make a determination under this section.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Chapter A-E 2

GENERAL REQUIREMENTS AND PROCEDURES

A-E 2.01 Purpose. The purpose of rules in this chapter is to specify general requirements and procedures which apply to persons credentialed by any section of the board. Requirements specific to architects, landscape architects, professional engineers, designers or professional land surveyors are specified in chs. A-E 3, 4, 5, 6, 7, 9, 10, 11, 12, and 13. Rules of professional conduct for all registrants or permit holders are specified in ch. A-E 8.

A-E 2.02 Registration seals.

- (1) Each architect, landscape architect, professional engineer, designer and professional land surveyor shall obtain a seal that complies with board specifications for registration seals. The overall diameter may not be less than 1 $\frac{5}{8}$ inches nor more than 2 inches. Each seal shall include the registrant's name, registration or permit number and city.
- (2) The following designs for registration seals have been approved:
- (3) A rubber stamp, identical in size, design and content to a board-approved seal, may be used as a substitute for a registration seal.
- (4) Each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional engineering, design or professional land surveying practice shall be signed, sealed and dated by the registrant or permit holder who prepared, or directed and controlled preparation of, the written material, except as specified in sub. (5).
- (5) If more than one sheet is bound together in a volume, the registrant or permit holder who prepared or directed and controlled the preparation of the volume, may sign, seal and date only the title or index sheet if the signed sheet identifies clearly all other sheets comprising the bound volume and if any other sheets which are prepared by or under the direction and control of another registrant or permit holder are signed, sealed and dated by the other registrant or permit holder.
- (6) Any addition, deletion or other revision to each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional engineering, design or professional land surveying practice which affects public health and safety or any state or local code requirements may not be made unless signed, sealed and dated by the registrant or permit holder who made or directed and controlled the making of the revision.
- (7)
 - (a) All seals or stamps affixed to plans, drawings, documents, specifications, and reports to be filed as public documents shall be original. No stickers shall be allowed. Seals or stamps may be applied by crimp type, rubber stamp or by electronic means provided the electronic seal or stamp meets the requirements of subch. II of ch. 137, Stats., a security procedure is used, and electronic submissions are permitted by the governmental unit that is to receive the plans, drawings, documents, specifications, and reports.
 1. The stamp authorized by the Board must be one of crimp type, rubber stamp type, or computer generated.
 - (b) All seals and stamps on plans, drawings, documents, specifications, and reports to be filed as public documents shall be signed and dated by the registered professional in one of the following manners:
 1. In a permanent ink contrasting with the seal and the background.
 2. Utilizing an electronic signature, meeting the requirements of subch. II ch. 137, Stats., a security procedure is used and if permitted by the governmental unit that is to receive the plans, drawings, documents, specifications, and reports. A scanned image of an original signature shall not be used in lieu of an electronic signature with a security procedure as found in s. 137.11 (13), Stats.

Note: Section 137.11 (13), Stats., of the statutes reads as follows: "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes identifying words or numbers, encryption, callback, or other acknowledging procedures.

- (c) If other standards for signatures or seals are prescribed by statute, the statutes shall govern.
- (8) Plans, specifications and calculations for buildings and structures not exempt under s. 443.15, Stats., which have been prepared by an architect or professional engineer other than the Wisconsin registered architect or engineer who is submitting the plans, specifications and calculations for filing as public documents, may be submitted if all of the following conditions are satisfied:
 - (a) The plans, specifications and calculations shall have been prepared by or under the supervision of an architect or professional engineer licensed in some state of the United States, and shall bear the signature and seal or stamp of the architect or professional engineer who prepared them or under whose supervision and control they were prepared.
 - (b) A certificate, dated, signed and sealed by the Wisconsin registered architect or professional engineer who is submitting the plans, specifications and calculations for filing as public documents, shall be attached to the plans, specifications and calculations. The certificate shall indicate that the plans, specifications and calculations were prepared by an architect or professional engineer other than the submitting registered architect or professional engineer; shall describe the work performed by the submitting registered architect or professional engineer; and shall include statements to the effect that the plans and specifications have been reviewed and comply with all applicable local and state building codes, and that the reviewing registered architect or professional engineer will be responsible for the supervision of construction in accordance with the requirements of the state, and of the county and municipality where the building or structure is to be erected. If the registered architect or professional engineer who originally prepared the plans, specifications and calculations was registered in Wisconsin at the time they were prepared, the certificate shall also specify why the original architect or professional engineer is not submitting the plans, specifications and calculations for approval.

A-E 2.03 Branch offices.

- (1) DEFINITIONS. In this section,
 - (a) "Firm" means any sole proprietorship, partnership, ~~or~~ corporation, limited liability company, or limited liability partnership located in ~~Wisconsin this state~~ which provides or offers to provide architectural, landscape architectural, professional engineering, design, or professional land surveying services to the public.
 - (b) "Resident" means a currently-registered architect, landscape architect, professional engineer, designer or professional land surveyor who spends the majority of his or her working schedule in one firm location and who is in charge of and responsible for the type of services offered or provided from that location.
- (2) RESIDENT REQUIRED; RESPONSIBILITIES. Every firm maintaining one or more places of business in Wisconsin shall have:
 - (a) A resident architect in each separate business location which provides or offers to provide architectural services.
 - (b) A resident professional engineer in each separate business location which provides or offers to provide professional engineering services.
 - (c) A resident designer in each separate business location which provides or offers to provide designing services.
 - (d) A resident professional land surveyor in each separate business location which provides or offers to provide professional land surveying services.
 - (e) A resident landscape architect in each separate business location which provides or offers to provide landscape architectural services.
- (3) NOTICE. ~~Every firm shall notify~~ Upon request from the board, a firm shall provide notification of at least one resident who is in charge of and responsible for each separate business location.
- (4) RESIDENT LIMITATION. A resident may not be in charge of or responsible for services offered or provided from more than one business location.

A-E 2.04 Change of address. Every registrant or permit holder shall notify the board in writing of a change of address within 30 days of the change. The notice shall include the person's or firm's former and new addresses and each registration or permit number held.

A-E 2.05 Failure to be registered.

(1) If ~~a licensee an individual~~ who fails to renew ~~his or her a~~ credential by the established renewal date applies for renewal of the credential less than 5 years after its expiration, the credential shall be renewed upon payment of the renewal fee specified in s. 440.08, Stats.

(2)

(a) If ~~a licensee an individual~~ applies for renewal of ~~his or her a~~ credential more than 5 years after its expiration, the applicable section of the board shall determine whether the applicant is competent to practice under the credential in this state. The inquiry shall include a review of the applicant's practice within the previous 5 years, if any, in other licensing jurisdictions.

(b) After inquiry, the applicable section of the board shall impose any reasonable conditions on reinstatement of the credential as the ~~board section~~ deems appropriate, including a requirement that the applicant complete any current requirement for original licensure.

A-E 2.06 Reciprocal credentials for service members, former service members, and their spouses. (1) In this section, "reciprocal credential" means all of the following:

(a) Registration as an architect.

(b) Registration as a landscape architect.

(c) Registration as a professional engineer.

(d) Certification as an engineer-in-training.

(e) A license to engage in the practice of professional land surveying.

(f) A permit as a designer of engineering systems.

(2) A reciprocal credential shall be granted to a service member, former service member, or the spouse of a service member or former service member who the appropriate section of the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the section may request verification necessary to make a determination under this section.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND
SURVEYORS

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL	:	PROFESSIONAL LAND SURVEYORS
LAND SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to amend A-E 8.04 (5), relating to professional conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 443.015 (2), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 443.015 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 443.015 (2), Stats., provides that “[e]ach section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section.”

Related statute or rule:

Section 443.11, Stats., gives the appropriate section of the Board the authority to, under specified circumstances, reprimand a credential holder or limit, suspend, or revoke a credential. One of the circumstances under which this authority may be exercised is any violation of the rules of professional conduct adopted and promulgated under s. 443.015 (2), Stats.

Plain language analysis:

The Board completed a comprehensive review of ch. A-E 8 to ensure that the rules are current with standards of practice and consistent with ch. 443, Stats. As a result, s. A-E 8.04 (5) has been revised to clarify that the common practice of representing a partnership or association in principal between parties within a proposal for the performance of services is not prohibited.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:**Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation provide standards of professional conduct for architects [68 Ill. Adm. Code 1150.90], engineers [68 Ill. Adm. Code 1380.300], and professional land surveyors [68 Ill. Adm. Code 1270.57]. The rules require an architect to accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit. The rules also provide that engineers and professional land surveyors soliciting employment may not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent or purpose of enhancing their qualifications or work.

Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

Iowa:

Rules of professional conduct for architects, engineers, professional land surveyors, and landscape architects are specified by the Iowa Architectural Examining Board [193B IAC 4.1], Iowa Engineering and Land Surveying Examining Board [193C IAC 8.1 to 8.5], and Iowa Landscape Architectural Examining Board [193D IAC 4.1 to 4.5]. The rules require an architect or landscape architect to accurately represent to a prospective or existing client or employer the scope of their responsibility in connection with work for which the architect is claiming credit. The rules also provide that presentations incident to the solicitation of employment as an engineer or professional land surveyor may not misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments.

Iowa does not issue permits or similar credentials for designers of engineering systems.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs provide standards of professional conduct for architects [Mich Admin Code, R 339.15401], professional engineers [Mich Admin Code, R 339.16031 to R 339.16034], professional land surveyors [Mich Admin Code, R 339.17401 to R 339.17403], and landscape architects [Mich Admin Code, R 339.19041]. The rules for professional engineers, professional land

surveyors, and landscape architects do not specifically address misrepresenting the extent to which the performance of services will involve a partnership or association with another registrant or licensee or misrepresenting the identity of a registrant or licensee with whom a partnership or association will be engaged in for the performance of services. The rules for architects adopt by reference the National Council of Architectural Registration Boards (NCARB) model rules of conduct revised July 2018. The model rules prohibit an architect from misrepresenting or overstating the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit.

Michigan does not issue permits or similar credentials for designers of engineering systems.

Minnesota:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design provides rules of professional conduct for architects, engineers, land surveyors, and landscape architects [Minnesota Rules, parts 1805.0100 to 1805.1600]. The rules provide that, in connection with work for which the licensee or certificate holder is claiming credit, the licensee or certificate holder must accurately represent the licensee's or certificate holder's qualifications, education, and scope of responsibility for the work. The licensee or certificate holder must also accurately represent the qualifications, education, and scope of responsibility of any employer, employees, or associates.

Minnesota does not issue permits or similar credentials for designers of engineering systems.

Summary of factual data and analytical methodologies:

The proposed rules were developed by conducting a comprehensive review of the provisions of ch. A-E 8 and obtaining input and feedback from the Rules Committee of the A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. A-E 8.04 (5) is amended to read:

A-E 8.04 (5) ~~May not represent that he or she is engaged in~~ misrepresent the extent to which the performance of services will involve a partnership or association with another ~~unless there exists in fact~~ registrant or licensee or misrepresent the identity of a registrant or licensee with whom a partnership or association will be engaged in for the performance of services.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND
SURVEYORS

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL	:	PROFESSIONAL LAND SURVEYORS
LAND SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to **repeal** A-E 13.08 (4) and (5); to **amend** A-E 12.08 (title), (3), and (5) to (8); and to **create** A-E 2.045, 10.035, 11.035, 12.035, and 13.035, relating to retired credential status.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 443.015 (1m), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 443.015 (1) and (1m), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 443.015 (1), Stats., provides that “[e]ach section of the examining board may establish continuing education requirements for renewal of a credential issued by that section under this chapter.”

Section 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, requires each section of the A-E Board to promulgate rules that do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the A-E Board to classify that credential as retired status.

- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew that credential prior to the renewal date, to apply to the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was previously held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate Section of the A-E Board to remove the retired status classification if the credential holder satisfies reinstatement requirements established by the appropriate Section of the A-E Board by rule.

Related statute or rule:

None.

Plain language analysis:

As required under s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, the proposed rules create provisions to do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the appropriate section of the A-E Board to classify the credential as retired status.
- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, to apply to the appropriate section of the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate section of the A-E Board to remove the retired status classification if the credential holder satisfies the reinstatement requirements under s. A-E 2.05 (2).
- Provide that continuing education requirements do not apply to renewal of a credential classified as retired status.

The proposed rules also revise s. A-E 12.08 to reference a waiver from continuing education requirements instead of an exemption from continuing education requirements. The updated terminology is consistent with that used in chs. A-E 10, 11, and 13.

Finally, the proposed rules remove provisions in s. A-E 13.08 concerning a request for a waiver from continuing education requirements based on retirement. As the proposed rules create a retired credential status, these provisions are no longer necessary.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation provide an inactive status for architects [68 Ill. Adm. Code 1150.65], engineers [68 Ill. Adm. Code 1380.285], and professional land surveyors [68 Ill. Adm. Code 1270.35]. A request for inactive status must be made in writing on a form prescribed by the Department. An architect, engineer, or professional land surveyor in inactive status is exempt from renewal fees and continuing education requirements.

The rules also provide requirements for the restoration to active status of architects [68 Ill. Adm. Code 1150.70], engineers [68 Ill. Adm. Code 1380.270], and professional land surveyors [68 Ill. Adm. Code 1270.40]. Restoration of a license placed on inactive status for 5 years or less (3 years or less for architects) requires payment of a renewal fee and compliance with continuing education requirements. Restoration of a license placed on inactive status for more than 5 years (more than 3 years for architects) to active status requires payment of restoration fees, compliance with continuing education requirements, and demonstration of active practice or continued competence.

Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

Iowa:

Within the requirements for renewal, rules of the Iowa Architectural Examining Board [193B IAC 2.5 (2)], Iowa Engineering and Land Surveying Examining Board [193C IAC 3.4 (11)], and Iowa Landscape Architectural Examining Board [193D IAC 2.8 (8)] provide an inactive status for their licensees. Licensees in inactive status are subject to reduced renewal fees and are exempt from continuing education requirements.

The rules also provide requirements for the reinstatement to active status of architects [193B IAC 2.7 (1)], engineers and land surveyors [193C IAC 3.5 (4)], and landscape architects [193D IAC 2.9 (2)]. Reinstatement requires the applicant to pay a fee, comply with continuing education requirements and, for architects and landscape architects, submit a written statement affirming the applicant did not practice in Iowa while in inactive status.

Iowa does not issue permits or similar credentials for designers of engineering systems.

Michigan:

Michigan does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems.

Minnesota:

Minnesota does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems. However, the Minnesota Statutes allow an individual who retires to use the designation architect, professional engineer, land surveyor, or landscape architect, as long as the designation is preceded by the word "retired" and the individual was licensed in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license was not subsequently revoked by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design [2019 Minnesota Statutes, Section 326.02, Subd. 1.].

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, and obtaining input and feedback from the Rules Committee of the A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. A-E 2.045 is created to read:

A-E 2.045 Retired credential status.

(1) The holder of a credential under ch. 443, Stats., may apply to the appropriate section of the board to classify the credential as retired status. The section shall classify the credential as retired status if all of the following requirements are met:

(a) The credential holder completes an application on a form provided by the board.

(b) The credential holder is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive.

(c) The credential holder certifies they have retired from and no longer engage in the practice for which the credential is held. The certification under this paragraph is not required to be notarized.

(2) Notwithstanding s. A-E 2.05, an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, may apply to the appropriate section of the board to renew the credential with retired status. A credential shall be renewed with retired status if all of the following requirements are met:

(a) The individual completes an application on a form provided by the board.

(b) The individual pays the fee under s. 443.015 (1m) (d), Stats.

(c) The individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive.

(d) The individual certifies they have retired from and no longer engage in the practice for which the credential was held. The certification under this paragraph is not required to be notarized.

(3) The holder of a credential classified as retired status under sub. (1) or (2) may apply to the appropriate section of the examining board to remove the retired status classification. The section shall remove the retired status classification if the applicant satisfies the reinstatement requirements under s. A-E 2.05 (2).

(4) A credential classified as retired status under sub. (1) or (2) shall be renewed upon payment of the fee under s. 443.015 (1m) (d), Stats.

SECTION 2. A-E 10.035 is created to read:

A-E 10.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 3. A-E 11.035 is created to read:

A-E 11.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 4. A-E 12.035 is created to read:

A-E 12.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 5. A-E 12.08 (title), (3), and (5) to (8) are amended to read:

A-E 12.08 (title) ~~Exemption~~ Waiver of continuing education.

(3) A registrant seeking to renew a registration who demonstrates that compliance with the continuing education requirements shall create an extreme hardship may request ~~an exemption from~~ a waiver of the continuing education requirements.

(5) A registrant who requests ~~an exemption from~~ a waiver of the continuing education requirements for extreme hardship shall file a renewal application along with the required registration fee and submit an affidavit which describes the circumstances of the hardship and provide any supporting documentation. The request for ~~an exemption a~~ waiver shall be submitted prior to the renewal date.

(6) If the architect section finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting ~~an exemption a~~ waiver, the registrant shall be permitted to renew the registration without completing the continuing education requirements for the applicable renewal period.

(7) A registrant who receives ~~an exemption from~~ a waiver of continuing education on the basis of extreme hardship due to an incapacitating disability, medical illness, active military duty or other extenuating circumstances may be required to complete continuing education upon his or her return to the active practice of architecture as determined necessary by the architect section to ensure the ability of the registrant to practice architecture in a safe and competent manner.

(8) A registrant shall be deemed to be in good standing until a final decision on the request for ~~exemption a~~ waiver has been made.

SECTION 6. A-E 13.035 is created to read:

A-E 13.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 7. A-E 13.08 (4) and (5) are repealed.

SECTION 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

A-E 2.045 Retired credential status.

(1) The holder of a credential under ch. 443, Stats., may apply to the appropriate section of the board to classify the credential as retired status. The section shall classify the credential as retired status if all of the following requirements are met:

(a) The credential holder completes an application on a form provided by the board.

(b) The credential holder is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive.

(c) The credential holder certifies they have retired from and no longer engage in the practice for which the credential is held. The certification under this paragraph is not required to be notarized.

(2) Notwithstanding s. A-E 2.05, an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, may apply to the appropriate section of the board to renew the credential with retired status. A credential shall be renewed with retired status if all of the following requirements are met:

(a) The individual completes an application on a form provided by the board.

(b) The individual pays the fee under s. 443.015 (1m) (d), Stats.

(c) The individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive.

(d) The individual certifies they have retired from and no longer engage in the practice for which the credential was held. The certification under this paragraph is not required to be notarized.

(3) The holder of a credential classified as retired status under sub. (1) or (2) may apply to the appropriate section of the examining board to remove the retired status classification. The section shall remove the retired status classification if the applicant satisfies the reinstatement requirements under s. A-E 2.05 (2).

(4) A credential classified as retired status under sub. (1) or (2) shall be renewed upon payment of the fee under s. 443.015 (1m) (d), Stats.

A-E 2.05 Failure to be registered.

(1) If a licensee who fails to renew his or her credential by the established renewal date applies for renewal of the credential less than 5 years after its expiration, the credential shall be renewed upon payment of the renewal fee specified in s. 440.08, Stats.

(2)

(a) If a licensee applies for renewal of his or her credential more than 5 years after its expiration, the board shall determine whether the applicant is competent to practice under the credential in this state. The inquiry shall include a review of the applicant's practice within the previous 5 years, if any, in other licensing jurisdictions.

(b) After inquiry, the board shall impose any reasonable conditions on reinstatement of the credential as the board deems appropriate, including a requirement that the applicant complete any current requirement for original licensure.

Chapter A-E 10

CONTINUING EDUCATION FOR PROFESSIONAL LAND SURVEYORS

A-E 10.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

Chapter A-E 11

CONTINUING EDUCATION FOR LANDSCAPE ARCHITECTS

A-E 11.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

Chapter A-E 12

CONTINUING EDUCATION FOR ARCHITECTS

A-E 12.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

A-E 12.08 ~~Exemption~~ Waiver of continuing education. (1) A registrant who holds a registration for less than 12 months from the date of initial registration or since the date of the last renewal shall not be required to report continuing education hours for the first renewal of registration.

(2) A registrant who holds a registration for more than 12 months from the date of initial registration or since the date of the last renewal shall be required to report 8 contact hours of continuing education for the first renewal of registration.

(3) A registrant seeking to renew a registration who demonstrates that compliance with the continuing education requirements shall create an extreme hardship may request ~~an exemption from a waiver of~~ the continuing education requirements.

(4) In this subsection, “extreme hardship” means an inability to fulfill the continuing education requirements during the applicable renewal period because of one of the following:

(a) Full-time or temporary active duty in the uniformed services of the United States for a period of time exceeding 120 consecutive days during a biennium, where the duty restricts participation in a continuing education program.

(b) An incapacitating disability or medical illness documented by a statement from a licensed health care provider which shows that participation in the active practice of architecture and a continuing education program was not possible.

(c) Any other extenuating circumstances.

(5) A registrant who requests ~~an exemption from a waiver of~~ the continuing education requirements for extreme hardship shall file a renewal application along with the required registration fee and submit an affidavit which describes the circumstances of the hardship and provide any supporting documentation. The request for ~~an exemption a waiver~~ shall be submitted prior to the renewal date.

(6) If the architect section finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting ~~an exemption a waiver~~, the registrant shall be permitted to renew the registration without completing the continuing education requirements for the applicable renewal period.

(7) A registrant who receives ~~an exemption from a waiver of~~ continuing education on the basis of extreme hardship due to an incapacitating disability, medical illness, active military duty or other extenuating circumstances may be required to complete continuing education upon his or her return to the active practice of architecture as determined necessary by the architect section to ensure the ability of the registrant to practice architecture in a safe and competent manner.

(8) A registrant shall be deemed to be in good standing until a final decision on the request for ~~exemption a waiver~~ has been made.

Chapter A-E 13

CONTINUING EDUCATION FOR PROFESSIONAL ENGINEERS

A-E 13.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

A-E 13.08 Waiver of continuing education. (1) A renewal applicant who is unable to fully comply with the continuing education requirements due to extreme hardship may submit a written request for a waiver. The professional engineer section or its designee will review the request, and in its sole discretion, may grant a full or partial waiver, or extension of time to comply with the requirements.

(2) In this section, “extreme hardship” means an inability to fulfill the continuing education requirements during the applicable renewal period because of one of the following:

(a) Full-time service in the uniformed services of the United States for a period of at least one year during the biennium.

(b) An incapacitating illness documented by a statement from a licensed physician.

(c) A physical inability to travel to the sites of approved programs documented by a licensed physician.

(d) Any other extenuating circumstances acceptable to the professional engineer section.

(3) A renewal applicant may not receive a waiver under sub. (2) (b) or (c) for 2 consecutive biennia.

~~(4) A renewal applicant who has maintained an active Wisconsin license for a minimum of 30 consecutive years may, at the discretion of the professional engineer section or its designee, receive a waiver upon request and certification that the applicant has retired from the profession and is no longer providing engineering services.~~

~~(5) A renewal applicant who receives a waiver under sub. (4) may not engage in the practice of professional engineering until the registration is renewed based upon compliance with the continuing education requirements under this chapter.~~

(6) A renewal applicant, who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a statement setting forth the facts concerning noncompliance and the basis of the request, shall be deemed to be in good standing until the final decision on the application is issued by the professional engineer section. If a finding of extreme hardship is not determined, an applicant may not engage in the practice of professional engineering until the registration is renewed based upon compliance with the continuing education requirements under this chapter.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND
SURVEYORS

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS, AND
DESIGNERS, AND PROFESSIONAL	:	PROFESSIONAL LAND SURVEYORS
LAND SURVEYORS	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 036-20, was approved by the Governor on May 7, 2020, published in Register 773A2 on May 11, 2020, and approved by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors on July 17, 2020.

This emergency rule was approved by the Governor on *

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to **repeal** A-E 13.08 (4) and (5); to **amend** A-E 12.08 (title), (3), and (5) to (8); and to **create** A-E 2.045, 10.035, 11.035, 12.035, and 13.035, relating to retired credential status.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Legislature, by SECTION 4 of 2019 Wisconsin Act 94, provides an exemption from a finding of emergency for the promulgation of this rule.

ANALYSIS

Statutes interpreted:

Section 443.015 (1m), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 443.015 (1) and (1m), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 443.015 (1), Stats., provides that “[e]ach section of the examining board may establish continuing education requirements for renewal of a credential issued by that section under this chapter.”

Section 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, requires each section of the A-E Board to promulgate rules that do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the A-E Board to classify that credential as retired status.
- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew that credential prior to the renewal date, to apply to the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was previously held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate Section of the A-E Board to remove the retired status classification if the credential holder satisfies reinstatement requirements established by the appropriate Section of the A-E Board by rule.

Related statute or rule:

None.

Plain language analysis:

As required under s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, the proposed emergency rules create provisions to do all of the following:

- Allow the holder of a credential under ch. 443, Stats., who is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive, and has retired from and no longer engages in the practice for which the credential is held, to apply to the appropriate section of the A-E Board to classify the credential as retired status.
- Allow an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, to apply to the appropriate section of the A-E Board to renew the credential with retired status if the individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive; has retired from and no longer engages in the practice for which the credential was held; and pays the applicable fee.
- Allow the holder of a credential classified as retired status to apply to the appropriate section of the A-E Board to remove the retired status classification if the credential holder satisfies the reinstatement requirements under s. A-E 2.05 (2).

- Provide that continuing education requirements do not apply to renewal of a credential classified as retired status.

The proposed emergency rules also revise s. A-E 12.08 to reference a waiver from continuing education requirements instead of an exemption from continuing education requirements. The updated terminology is consistent with that used in chs. A-E 10, 11, and 13.

Finally, the proposed emergency rules remove provisions in s. A-E 13.08 concerning a request for a waiver from continuing education requirements based on retirement. As the proposed emergency rules create a retired credential status, these provisions are no longer necessary.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation provide an inactive status for architects [68 Ill. Adm. Code 1150.65], engineers [68 Ill. Adm. Code 1380.285], and professional land surveyors [68 Ill. Adm. Code 1270.35]. A request for inactive status must be made in writing on a form prescribed by the Department. An architect, engineer, or professional land surveyor in inactive status is exempt from renewal fees and continuing education requirements.

The rules also provide requirements for the restoration to active status of architects [68 Ill. Adm. Code 1150.70], engineers [68 Ill. Adm. Code 1380.270], and professional land surveyors [68 Ill. Adm. Code 1270.40]. Restoration of a license placed on inactive status for 5 years or less (3 years or less for architects) requires payment of a renewal fee and compliance with continuing education requirements. Restoration of a license placed on inactive status for more than 5 years (more than 3 years for architects) to active status requires payment of restoration fees, compliance with continuing education requirements, and demonstration of active practice or continued competence.

Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

Iowa:

Within the requirements for renewal, rules of the Iowa Architectural Examining Board [193B IAC 2.5 (2)], Iowa Engineering and Land Surveying Examining Board [193C IAC 3.4 (11)], and Iowa Landscape Architectural Examining Board [193D IAC 2.8 (8)] provide an inactive status for their licensees. Licensees in inactive status are subject to reduced renewal fees and are exempt from continuing education requirements.

The rules also provide requirements for the reinstatement to active status of architects [193B IAC 2.7 (1)], engineers and land surveyors [193C IAC 3.5 (4)], and landscape architects [193D IAC 2.9 (2)]. Reinstatement requires the applicant to pay a fee, comply with continuing education requirements and, for architects and landscape architects, submit a written statement affirming the applicant did not practice in Iowa while in inactive status.

Iowa does not issue permits or similar credentials for designers of engineering systems.

Michigan:

Michigan does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems.

Minnesota:

Minnesota does not provide a retired or inactive licensure status for architects, engineers, professional land surveyors, or landscape architects, and does not issue permits or similar credentials for designers of engineering systems. However, the Minnesota Statutes allow an individual who retires to use the designation architect, professional engineer, land surveyor, or landscape architect, as long as the designation is preceded by the word "retired" and the individual was licensed in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license was not subsequently revoked by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design [2019 Minnesota Statutes, Section 326.02, Subd. 1.].

Summary of factual data and analytical methodologies:

The proposed emergency rules were developed by reviewing the provisions of s. 443.015 (1m), Stats., as created by 2019 Wisconsin Act 94, and obtaining input and feedback from the Rules Committee of the A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The fiscal estimate submitted with the bill associated with 2019 Wisconsin Act 94 was used in the department's analysis. The proposed emergency rules have no new or additional impact.

Fiscal estimate:

Please see the fiscal estimate submitted with the bill associated with 2019 Wisconsin Act 94. The proposed emergency rules have no new or additional impact.

Effect on small business:

These proposed emergency rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these emergency rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature's website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. A-E 2.045 is created to read:

A-E 2.045 Retired credential status.

(1) The holder of a credential under ch. 443, Stats., may apply to the appropriate section of the board to classify the credential as retired status. The section shall classify the credential as retired status if all of the following requirements are met:

(a) The credential holder completes an application on a form provided by the board.

(b) The credential holder is at least 65 years of age or has actively maintained the credential for at least 20 years, which need not be consecutive.

(c) The credential holder certifies they have retired from and no longer engage in the practice for which the credential is held. The certification under this paragraph is not required to be notarized.

(2) Notwithstanding s. A-E 2.05, an individual who previously held a credential under ch. 443, Stats., and failed to renew the credential prior to the renewal date, may apply to the appropriate section of the board to renew the credential with retired status. A credential shall be renewed with retired status if all of the following requirements are met:

(a) The individual completes an application on a form provided by the board.

(b) The individual pays the fee under s. 443.015 (1m) (d), Stats.

(c) The individual is at least 65 years of age or had actively maintained the credential for at least 20 years, which need not be consecutive.

(d) The individual certifies they have retired from and no longer engage in the practice for which the credential was held. The certification under this paragraph is not required to be notarized.

(3) The holder of a credential classified as retired status under sub. (1) or (2) may apply to the appropriate section of the examining board to remove the retired status classification. The section shall remove the retired status classification if the applicant satisfies the reinstatement requirements under s. A-E 2.05 (2).

(4) A credential classified as retired status under sub. (1) or (2) shall be renewed upon payment of the fee under s. 443.015 (1m) (d), Stats.

SECTION 2. A-E 10.035 is created to read:

A-E 10.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 3. A-E 11.035 is created to read:

A-E 11.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 4. A-E 12.035 is created to read:

A-E 12.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 5. A-E 12.08 (title), (3), and (5) to (8) are amended to read:

A-E 12.08 (title) ~~Exemption~~ Waiver of continuing education.

(3) A registrant seeking to renew a registration who demonstrates that compliance with the continuing education requirements shall create an extreme hardship may request ~~an exemption from~~ a waiver of the continuing education requirements.

(5) A registrant who requests ~~an exemption from~~ a waiver of the continuing education requirements for extreme hardship shall file a renewal application along with the required registration fee and submit an affidavit which describes the circumstances of the hardship and provide any supporting documentation. The request for ~~an exemption~~ a waiver shall be submitted prior to the renewal date.

(6) If the architect section finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting ~~an exemption~~ a waiver, the registrant shall be permitted to renew the registration without completing the continuing education requirements for the applicable renewal period.

(7) A registrant who receives ~~an exemption from~~ a waiver of continuing education on the basis of extreme hardship due to an incapacitating disability, medical illness, active military duty or other extenuating circumstances may be required to complete continuing education upon his or her return to the active practice of architecture as determined necessary by the architect section to ensure the ability of the registrant to practice architecture in a safe and competent manner.

(8) A registrant shall be deemed to be in good standing until a final decision on the request for ~~exemption~~ a waiver has been made.

SECTION 6. A-E 13.035 is created to read:

A-E 13.035 Exemption for retired credential status. The continuing education requirements under this chapter do not apply to the renewal of a credential classified as retired status under s. A-E 2.045 (1) or (2).

SECTION 7. A-E 13.08 (4) and (5) are repealed.

SECTION 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on December 1, 2020, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Rosheen Styczinski
Chairperson

James A. Gersich
Vice Chairperson

Tim R. Garland
Secretary

EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS, AND PROFESSIONAL
LAND SURVEYORS



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March 29, 2019

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are unauthorized rules, as defined in s. 227.26 (4) (a), Stats.

II. Rules for which the authority to promulgate has been restricted:

Rule	Description of the legislation that restricted the authority	Action taken to address or reason for not taking an action
ss. A-E 3.05 (8), A-E 5.04 (8) (a)	Repeal of s. 443.09 (6), Stats., in 2009 Act 350.	Scope Statement, SS 022-19, was published on March 4, 2019 and expires on September 4, 2021. Scope Statement for ch. A-E 3 to be presented to the Architect Section at the April 24, 2019 meeting.

III. Rules that are obsolete or that have been rendered unnecessary:

Rule	Description of why the rule is obsolete or has been rendered unnecessary.	Action taken to address or reason for not taking an action
s. A-E 2.05	Replacing the term "board" with "section" to be more accurate in rules of general	Scope Statement for ch. A-E 2 requested on November 30, 2018.

	applicability, in accordance with statutory changes in 2011 Act 146.	
ss. A-E 3.05, A-E 4.07, A-E 9.05	Because the sections have determined that applicants should take a national exam to satisfy statutory requirements, specific provisions related to examination conduct are unnecessary.	Scope Statement for ch. A-E 3 to be presented to the Architect Section at the April 24, 2019 meeting. Scope Statement for ch. A-E 4, SS 008-18, expires August 12, 2020. Scope Statement, SS 024-19, was published on March 4, 2019 and expires on September 4, 2021.
s. A-E 3.03 (1)	Updating the name of the Intern Architect Development Program with the new name provided by the National Council of Architectural Registration Boards.	Final rule submitted to the Legislature, CR 18-029.

IV. Rules that are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are duplicative, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.

V. Rules that are economically burdensome:

Rule		Action taken to address or reason for not taking an action
s. A-E 8.04 (5)	The provision will be revised to ensure that it is not interpreted in an unnecessarily economically burdensome way.	Scope Statement for ch. A-E 8 requested on November 30, 2018.

Thank you.

Sincerely,



Rosheen Styczinski

Chairperson

Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

SECTION 7. 227.29 of the statutes is created to read:

227.29 Agency review of rules and enactments. (1)

By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

SECTION 8. Initial applicability.

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative

Administrative Rule	Status of Current Project	Anticipated Next Steps	Comments
A-E 1 to 13, relating to retired credential status	As the scope statement has been implemented, changes to the rules may be considered.	Draft emergency and permanent rules will be presented to the Rules Committee and Board in October 2020	
A-E 2, relating to general requirements and procedures: Act 108 review	Changes to the rules have been considered and proposed	Draft permanent rules will be presented to the Rules Committee and Board in October 2020	
A-E 3, relating to architect registration examination: In response to the Act 108 report, correcting outdated exam provisions	The final rules have been approved by the Legislature	The Board may adopt the final rules at its October 7, 2020 meeting	
A-E 4, relating to professional engineer registration: Updating and revising the chapter for clarity and consistency with national standards.	The rules have been finalized with an effective date of July 1, 2020	N/A	<i>As this rule project has been finalized, it will not appear on the next Report</i>
A-E 5, relating to the designer permit: Updating the chapter to provide clarification on experience requirements	The final rules and legislative report have been approved by the Governor’s Office	The final rules and legislative report will be submitted to the Legislature for approval in January 2021	<i>The Designer Section does not have quorum.</i>
A-E 6, relating to professional land surveyor licensure: Updating the chapter to provide clarification on Wisconsin experience requirements	The final rules and legislative report have been approved by the Governor’s Office	The final rules and legislative report will be submitted to the Legislature for approval in January 2021	

Administrative Rule	Status of Current Project	Anticipated Next Steps	Comments
A-E 7, relating to minimum standards for property surveys: Updating the chapter to provide clarification for licensees	The final rules have been approved by the Legislature	The Board may adopt the final rules at its October 2020 meeting	
A-E 8, relating to professional conduct: Act 108 Review	Changes to the rules have been considered and proposed	Draft permanent rules will be presented to the Rules Committee and Board in October 2020	
A-E 9, relating to landscape architect registration: Update to ensure compliance with 2017 Act 278.	The final rules have been approved by the Legislature	The Board may adopt the final rules at its October 2020 meeting	

Pending Bills	Status	Anticipated Next Steps	Comments
SB156/AB163 Retired Status Bill	Enacted into law (2019 Wisconsin Act 94)	The Rules Committee will consider approval of draft emergency and permanent rules at its October 2020 meeting	<i>2019 Wisconsin Act 94 has a December 1, 2020 effective date</i>
SB303/AB324 Interior Designers	Senate Bill 330 passed the Senate on January 21, 2020. Assembly Bill 324 referred to the <i>Assembly Committee on State Affairs</i> on June 27, 2019. Public hearing held on February 20, 2020.	As the Assembly has adjourned, it is very unlikely further action will be taken this Legislative session	