

Nebraska Board of Engineers and Architects  
**Operational Planning Meeting Minutes – May 20, 2020**  
Via Webex

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## **CALL TO ORDER**

Chair Bostelman called the May 20, 2020 online Webex operational planning meeting of the Nebraska Board of Engineers and Architects to order at 9:02 a.m. It was noted the Open Meetings Act was available at the Nebraska Legislature's website at <https://nebraskalegislature.gov>. A link was provided through Webex. A notice of the electronic meeting was published in the Lincoln Journal Star in compliance with the Open Meetings Act.

On March 13, 2020, the Governor issued Executive Order No. 20-03, which provides a limited waiver of certain requirements of the Open Meetings Act. Governing bodies are allowed to meet by electronic means if access is made available to the public and members of the media. The waiver is effective through May 31, 2020.

Member Roll Call: Jan Bostelman, Chair; Brett Foley, Vice Chair; Daniel Thiele, Secretary; Bruce Dvorak; Lenora Isom; Jason Suelter. Absent: Brian Kelly, David Johnson.

Staff Present: Jon Wilbeck, Executive Director (ED); Amy Habe, Compliance Officer (CO); Sandra Weaver, Business Manager; Jean Lais, Administrative Assistant (AA); Molly Mayhew, Public Information Officer (PIO).

Johnson and Kelly joined the meeting at 9:06 a.m.

## **Legislative Items**

### **LB755 Status**

ED Wilbeck reported the history of the Board's efforts to decouple experience from sitting for the PE exam in Nebraska. LB 834 was heard in the Legislature in late January. In order to move the bill forward, the bill was amended into LB 755 carried by Senator Blood, and is currently on Select File. The Legislature is on hold until the Speaker calls the body back into session. The Legislature may reconvene on July 20 with adjournment on July 13. A copy of LB 755 and amendment AM2480 were provided for Board review. The effect on the exam pass rate for early takers was questioned. ED Wilbeck noted issues for these examinees could be addressed in the rules and regulations. The Board will need to wait until the Nebraska Legislature convenes to determine if the bill will be successful and decoupling will occur.

### **Interior Design Registration**

Legislation failed in 2009 to create the voluntary title of certified interior designer in state statute. The legislative bill identified the Board of Engineers and Architects to administer the Interior Designer's Certification Act. In 2020, LB 1068 named the Nebraska State Treasurer to administer the profession. The Board of Engineers and Architects opposed LB 1068 because the definition of an interior designer appeared to be a subset of architecture. The bill language did not specify a state exam and the State Treasurer would be responsible to approve an exam. A transcript of the hearing testimony for LB 1068 was provided.

ED Wilbeck reported receiving a call from an owner of an interior design firm wanting to discuss the reasons for the Board's opposition to LB 1068. ED Wilbeck asked the Board if there was interest in setting up a dialogue with interior designers. After discussion, the Board agreed it was willing to work with interior designers, with one of the goals being to better define the scope of interior design as it relates to the practice of architecture. Foley noted NCARB is forming an incidental practice work group and will be looking at the practice between architects, interior designers, and other professions. The Board could wait to see the results of the work group. A Board Committee will be set up to meet with representatives of interior design professional organizations in Nebraska to discuss outside efforts to regulate the practice of interior design. A small number of strategic people will be chosen to meet. ED Wilbeck will report back to the firm owner. Kelly indicated he was willing to be a member of the Interior Design Committee.

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### Occupational Board Reform Act; agency reporting

ED Wilbeck reported receiving an Occupational Board Reform Act Survey Request from the Nebraska Legislature's Health and Human Services Committee. LB 299, approved by the Governor in April 2018, established a process to review existing regulations to make sure they protect the public from present and substantiated harm, are the least restrictive, and impose the lowest burden and cost to applicants. The law seeks to reduce barriers-to-entry into occupations. Beginning in 2019, each standing committee of the Legislature is to annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report to the Clerk of the Legislature by December 15 of each year. The survey is due June 26, 2020. ED Wilbeck will bring a draft response to the June 12, 2020 meeting for Board review.

### Review of Potential Regulation Changes

If LB 755 is successful in the 2020 legislative session, revisions will need to be made to the Board's rules and regulations. Proposed language changes to address "decoupling" engineering experience from the PE exam and ARE direct registration were provided. ED Wilbeck suggested the Board consider including the continuing education changes approved in April 2020 in rulemaking promulgation to ensure their validity. When the Board is ready to revise the rules and regulations, representatives of the American Council of Engineering Companies (ACEC Nebraska) and the Nebraska Society of Professional Engineers (NSPE-NE) will be invited to assist with proposed language. If the bill does not pass, the Board may still start work on a draft of proposed rules and regulations.

### Discussion of outreach priorities for Marketing Plan

PIO Molly Mayhew recapped outreach activities for FY 2019-20. In 2019, approximately 200 school districts were mailed the *Engineers and Architects Regulation Handbook* and an updated *Before You Build* brochure. Because of the turnover in school superintendents, a regulation handbook and a letter will be sent to members of the Nebraska Association of School Boards (NASB) at least every five years or less.

Three new FAQ blocks were added to the Board's website for licensees and one new FAQ block was added for the public.

PIO Mayhew suggested the Board consider presentations through Webex or Zoom because of uncertainty with in-person meetings. This would also allow the Board to reach students in all parts of Nebraska. Some towns have economic developments or associations that could be reached out to. Chambers of commerce and city councils would also be good contacts. The regulation handbooks are currently being sent to county and code officials.

The Board reiterated the importance of visiting building officials. ED Wilbeck reported that before the compliance cases increased to such a high number, the Board had set a goal of the Compliance Officer visiting every building official in the state every two years. Because of the compliance caseload, the visitation schedule would need to be modified. PIO Mayhew has maintained a map of where compliance cases are located for the last two years to help determine where most of the cases are occurring. Special Assistant Attorney General Sean Minahan and PIO Mayhew discussed the possibility of sending a letter to the editor of most newspapers in Nebraska. The letter would define what the Board does and the importance of knowing the requirements for building projects. Currently, the Board believes that newspapers may be looking for ways to fill publication space, so the timing might work well.

The FY 2020-21 Marketing Plan contains the main contacts, planned presentations and priorities. Notes will be added through the year as to what has been done. PIO Mayhew noted some organizations are not as receptive but they are keep on list to stay aware of them. Everyone on the list will be re-contacted in June.

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Board webinars could be considered including continuing education and ethics events. The Continuing Education Committee will draft a plan of what could be provided. The Board emphasized any offerings should not conflict with activities conducted by AIA Nebraska, NeSPE, ACEC/Nebraska, or any other professional organization.

### **Future Transfers from E&A Fund to General Fund**

In Fiscal Years 2009-10, 2010-11 and 2017-18, the State of Nebraska transferred a large amount of money from the Board's Cash Fund to the General Fund. It was noted that there were other fee-based agencies that have statutes in place to prevent this from occurring. The Board would like to reduce fees to remove barriers and lower the cost for the licensees, but in light of the shortfall in revenue for the State of Nebraska, the Board may be in danger of losing more of its Cash Fund. ED Wilbeck noted LB 331 (2017) added language to the Engineers and Architects Act that specifically stated funds may be transferred to the General Fund at the direction of the Legislature. For future transfers, the Legislature would need to pass a bill stating they have authority specific to that fund in order to be able to access it, with the Board having a chance to testify at the bill's legislative hearing. ED Wilbeck will research on other bills that had statutes to prevent the transfers and see how hearing testimony addressed the issue.

### **NBEA Licensee Database**

ED Wilbeck reported the need to replace the agency database created in 2007. The contractor that produced the database became a state senator and could not continue to maintain it. Vendor presentations were attended several years ago. The costs were high and did not appear to offer what was needed. The database project initiated by OCIO was not successful and ultimately would have been much too expensive to implement. Board staff has investigated two additional providers and one appears to offer a flexible, affordable solution. ED Wilbeck will work with that vendor to move forward with conversion so expenditures may be included in the biennial budget submission in September.

### **Biennial Budget 2021-2023**

A draft spreadsheet of work done so far for the 2021-2023 biennial budget was provided to the Board. ED Wilbeck noted the drop in expenditures when the work on a database came to a halt. It will be difficult to discuss renewal fee reductions when the Board does not have control over its Cash Fund balance. A spreadsheet could be brought to the meeting showing how a fee reduction would affect revenue. A tracking sheet has been kept for certificate of authorization or license applications. There is a much lower number of exam applications. Concern was expressed that more examinations would be compromised with the item writing meetings cancelled. The Board discussed budgeting for outreach marketing. ED Wilbeck reminded the Board that the expenditure request for radio PSAs was denied during the last appropriations bill for the 2019-2021 biennial budget. It was noted total expenses for marketing are difficult to see since expenses fall under many different object codes. If the public knows the Engineers and Architects Regulation Act exists, they are more likely to comply. The Board reemphasized the need to focus on education rather than enforcement. Expenditures will be reflected in the biennial budget request.

### **Board FY20-21 Committee Makeup + Members**

The Board discussed setting up the following committee for FY 2020-2021:

- Legislative
- Rules Drafting
- Interior Design
- Continuing Education
- Budget

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- Executive

Chair Bostelman will appoint members and specify assignments at the May 21, 2020 Board meeting.

**ADJOURNMENT**

Chair Bostelman closed the meeting at 11:36 a.m.



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Daniel J. Thiele, Secretary