

TO: NSPE Board of Directors

cc: NSPE Committee, Task Force, Council and Interest Group Chairs
State Society Presidents and Presidents-Elect
State Society Executives Council
NSPE Past Presidents

FROM: Mark J. Golden, FASAE, CAE 
Executive Director & CEO

DATE: December 2, 2019

RE: Board Update: November 15–30, 2019

Champion

New federal bill includes provision to close PE exemptions. The week of November 20, the House Energy and Commerce Committee held a markup for H.R. 5120: The SAFER Pipelines Act of 2019. During the markup, Congressman Joe Kennedy submitted an amendment supported by NSPE that includes a provision requiring a professional engineer to review and approve construction plans for all natural gas pipeline projects. Though it's worded a bit differently, it's essentially the same provision we've been fighting for in the Leonel Rondon Pipeline Act. Its inclusion in this broader bill is a very positive step forward, as H.R. 5120 was voted out of committee and will go before the full House for a vote. NSPE government relations staff continue to meet with Hill staffers and work to gain support for the provision, which would end the engineering license exemption for natural gas pipelines.

Sunset review bill introduced in Florida. A new bill ([H.B. 707](#)), supported by the governor, has been introduced that establishes a review and sunset schedule for all licensing boards, including the Florida Board of Professional Engineers, and automatically sunsets those boards beginning on July 1, 2021, with the PE board scheduled for July 1, 2024. The bill requires specific action to reauthorize relevant boards each year.

Although, some 30 states have provisions for regular sunset reviews already in place, which require state licensing boards to submit to regular examinations of their statutes and processes, as drafted the Florida legislation raises two significant red flags.

First, its vagueness. The Florida bill contains no details regarding the criteria for sunset reviews. **How** such reviews are conducted and the standards applied can make the difference between the

NSPE encourages states to use the information in this report in newsletters or other updates to their membership to inform members on the activities of NSPE. As a suggestion, it may be most useful to take the bullets of most interest from the transmittal email. The full report (and past reports) can always be found [online](#).

engineering board coming out in a stronger position at the end of the review or facing unreasonable conditions that no licensing authority could withstand. Given Florida's current antiregulatory political climate (fueled by the activities of national anticensure groups) the state could, for example, establish an assumption that market competition is sufficient to protect the public, as has been proposed in several states. While this lack of detail is concerning, it is also an opportunity for licensed professional engineers to help shape the language by contacting their elected officials to discuss the value of licensing and the ways that PEs protect the public health, safety, and welfare.

Second, and even more serious, is the apparent default position in the legislation: automatic elimination of a board and license unless action is completed to preserve it before the deadline. (The more common approach is to require a review, but the license and board remain in place unless and until affirmative action is enacted to modify or eliminate them.)

NSPE is in contact with the Florida Engineering Society and reaching out to NSPE's Florida members to inform them of the bill and encourage coordinated action to contact their representatives.

Philadelphia adds PE requirement to increase construction site safety. Following recent construction-related collapses, the City of Philadelphia made the move to increase public safety with a new PE inspection requirement for excavation projects.

The Department of Licenses and Inspections [added the regulations](#) in response to building collapses and property damage tied to an uptick in redevelopment in the city over the last few years, according to the *Philadelphia Inquirer*. For example, a family lost their home in February because of excavation at a building next door involving a construction crew without proper permits.

In [a November 7 article](#), the department commissioner David Perri stated, "We have so much more construction activity that there are now so many more opportunities for people to step on each others' toes and for accidents to occur. The incentive now for a builder to go in and do a teardown and build new in the middle of a block...it's causing issues that hadn't previously existed."

The department updated its building permitting process related to excavations and protection of adjacent property (both public and private) to require monitoring and inspection by a licensed professional engineer. An inspection is needed when the construction project meets the following conditions: 1) When underpinning or structural support is specified or required; 2) Where excavations in excess of 12 feet in depth require engineer-designed sheeting and shoring; and 3) Where an excavation is three feet or less from an existing building. The PE requirement went into effect in August.

New York bill promotes PE oversight. A bill that has passed the New York State Senate and is awaiting approval by the State Assembly would greatly enhance public safety and require a professional engineering license.

The legislation ([S.B. 2935](#)), sponsored by Senator Todd Kaminsky, passed the upper house last May. The bill would require certain engineering plans for work or services that could pose a material risk to public safety—for example, gas transmission lines—to bear a professional engineer’s seal.

The legislation also authorizes the public services commission to set rules and regulations relating to the requirement. When the New York State Assembly reconvenes [on January 8](#), they will consider the companion bill ([A.B. 6557](#)), sponsored by Assemblyman Michael Cusick.

Minnesota considers following PE exam trend. As more states allow early taking of the PE exam, the Minnesota licensing board is considering a rule change to allow for this. (Applicants will still be required to complete all education, examination, and experience requirements before being granted a PE license.)

Traditionally, licensure candidates have been allowed to take the PE exam only *after* passing the FE exam and gaining four years of approved experience. The board is considering the change because it believes that allowing applicants the option of taking the exam prior to completing the experience requirement may encourage and facilitate emerging professionals to pursue a PE license. They can do so without having to polish their exam-taking skills many years after graduating from college.

In 2005, Nevada became the first state to allow the early taking of the PE exam. The following states have followed suit: Arizona, California, Delaware, Florida, Idaho, Illinois, Kentucky, Louisiana, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Texas, Utah, and Wyoming.

NSPE is in favor of state licensing boards allowing candidates to take the PE exam early, *if* they have met the educational requirements for licensure and passed the FE exam. The Society also believes that the requirement of four years of progressive engineering experience should remain unchanged, and licensure candidates who pass the PE exam early need to gain the required years of engineering experience before becoming licensed.

Michigan puts certificate of merit legislation on the agenda. To protect design professionals from frivolous lawsuits, a certificate of merit bill has been introduced in the Michigan Legislature.

The legislation ([H.B. 5169](#)), introduced on October 29, would require a plaintiff in an action or arbitration proceeding alleging malpractice or negligence against an architect, engineer, or surveyor to file a certificate of merit signed by a licensed design professional in Michigan engaged in the practice of the same discipline as the defendant. A defendant may request an affidavit within 56 days after the complaint or notice requesting arbitration. If a plaintiff fails to file an affidavit, the court or arbitrator can dismiss the action or arbitration proceeding with prejudice.

The certificate of merit must state that the applicable standard of care was breached by the architect, engineer, or surveyor and outline the actions that should have been taken or

omitted by the design professional to comply with the applicable standard of care. It must also state that the breach of the standard of care was the cause of the alleged injury or damage to the plaintiff.

NSPE recognizes that professional engineers are often targets of lawsuits associated with wrongful death, personal injury, property damage, or breach of contract. Yet, many malpractice and negligence claims brought against PEs may have no material basis or justification in fact or law. The Society supports the enactment of certificate of merit laws to reduce baseless claims against professional engineers.

Don't overlook these [engineering and licensure videos](#) in your licensure education and advocacy efforts. You can view and share videos from NCEES on the benefits of professional licensure, the responsibilities of licensure, how engineers and surveyors affect people's daily lives, and more.

Guide

The National Transportation Safety Board has condemned the lack of state and federal regulation for testing autonomous vehicles before finding that a distracted human safety driver was the main cause of a fatal 2018 Arizona crash involving an Uber vehicle. The board criticized the National Highway Traffic Safety Administration, the government's road safety agency, for failing to lead in regulating tests on public roads. But it also said states need to adopt their own regulations. "In my opinion they've put technology advancement here before saving lives," NTSB member Jennifer Homendy said of NHTSA, after NTSB staff members called self-regulation inadequate. "There's no requirement. There's no evaluation. There's no real standards issued." You can read more [here](#). These statements strongly echo [the arguments NSPE has been making](#) for more than four years.

NHTSA has issued voluntary guidelines, including for safety assessment reports, from autonomous vehicle companies, but **only 16 have filed such reports**. Yet there are 62 companies with permits to do testing in California alone.

Is the future of engineering human? That's the big question, put to a panel of experts at the World Engineers Convention. Moderator Jon Williams, partner and cofounder of management consulting firm Fifth Frame, began the discussion with a question for the audience: "How optimistic are you about the future of engineering?" As the responses poured in (on a scale of 1-5, 5 being very optimistic, 1 being "we're doomed"), it became clear that while there's some uncertainty, many feel there will still be a place for ethically guided engineers in the future. Panelists responded that the future of engineering is absolutely human, but all agreed that this will only be the case if the profession can shift in some fundamental ways. You can read more [here](#).

Advance

[Honor Your PE Colleagues](#). NSPE Honor Awards promote the professional engineer's contributions to society and recognize the achievements of the profession. The deadline for submissions is January 31, 2020.

Unite

The NSPE Diversity, Equity and Inclusion Advisory Committee held its first meeting on November 25. The committee laid the groundwork for an aggressive schedule to define and implement a program of work to realize the strategic plan goal of "ensuring the profession is a reflection of society" and encourage participation in NSPE by underrepresented groups that are necessary to the profession's future and to the sustainability and growth of both national and our state societies. The committee plans to meet every three weeks and transition to monthly meetings once projects are up and running. The committee's initial focus will be on collecting the data needed to get a better handle on where we are today, establishing a baseline to measure progress against. Four dimensions were identified as the preliminary fields to track: 1) representation in our membership and leadership, 2) retention, such as the average length of membership of underrepresented groups, 3) recruitment, the number of new members or students added; and 4) association selection, appointments to committees, candidates for officer positions, and other factors.

Expanded insurance coverages for NSPE integrated affiliated state societies took effect Sunday, December 1. The package includes Commercial General Liability (CGL) and a Management Liability (D&O, Employment Practice Liability and Employee Dishonesty) coverage. The Novick Group, now known as Gallagher, is serving as the insurance broker and administrator for the new program. [Information](#) was pushed to participating state societies last week, including copies of the policies, how to request certificates of insurance, and additional resources for their use. If you have questions or concerns, please e-mail [Gallagher](#) and they will promptly handle your concern. State societies should pay particular attention to coverage for special events such as golf tournaments or athletic activities, which are not guaranteed coverage through this program and may not qualify for a certificate. Again, contact Gallagher as far in advance of such events as possible and they will work with you to maximize or extend special coverage.

This important and valuable coverage is provided to integrated state affiliates entirely at national's expense, as a value added to the partnership.

The option for members to automatically renew their membership is now in place. Fully integrated into the NSPE dues billing and administration systems used for our integrated state affiliates, this secure new process protects members: NSPE does *not* save any credit card information in our system. It is designed to create ease and convenience for our members in renewing their membership. (It is just the latest of the constant technology upgrades NSPE has been implementing to dues processing.) Renewal emails and invoices have been updated with the information and an opt-in to auto renewal button is available

and clearly marked on the online renewal page. We will continue to alert members to this time-saving option as they come up for renewal.

In its first three weeks of auto renewal, 73 renewing members opted in. Plus, there was an unanticipated but positive surprise: 19 newly joining members also opted-in, even before their first year of membership began.

I look forward to providing future updates as we watch this program grow.

The newly updated and revised [NSPE Strategic Plan](#) represents *both* continuity *and* change: continuity with the society's unchanging goal of protecting public health, safety and welfare; and a recognition that we needed change in order to achieve more impact, through strategies backed by resources that will deliver real-world results.

It starts from a simple premise, something that has been NSPE's reason for being since it was founded 85 years ago. It is a premise that should resonate with any man or woman on the street, regardless of their familiarity (or lack thereof) with NSPE, engineering or licensure, namely that *we all deserve to live in a world where we can be confident that the engineering decisions affecting our lives are made by qualified and ethically accountable professionals.*

NSPE's unique role in bringing this vision to reality follows in a mission statement of just nine words: *to foster licensed professional engineers in service to society.*

That will be achieved by engaging in activities governed by the organization's values: *ethics and accountability; qualifications; professional advancement; and unity.*

That is the all-important *why* and *how* of NSPE. We can never afford to take our eyes off these statements. They need to guide and inform every decision we make as an organization.

And remember, you always have access to numerous NSPE leadership resources in the [Leadership Toolbox](#). This includes [talking point](#) scripts and presentations for use by NSPE officers, board members, and other leaders during state visits, chapter meetings, or other venues to promote NSPE and its activities, updated on an at least quarterly basis.

The [State and National Leaders](#) community page is not only a direct means of engaging, sharing ideas, and asking for advice from your peers in leadership across the country, it is your link to data, reports, and analysis on membership, programs and activities to better inform and support your leadership duties at the national, state and chapter level.

Current board members can access an online library of board meeting materials (past, current and future) through the online board book site, ([BoardBookIt](#)).