

Preliminary Evaluation of the State Board for Professional Land Surveyors

Recommendations: Waive from Full Evaluation

Extend Termination Date by 11 Years to July 1, 2024

Require Follow-up Report by October 1, 2011

The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board for Professional Land Surveyors was not scheduled for a preliminary evaluation under statute until 2010; however, DLS accelerated the review process for this board – along with several others – to more evenly distribute the number of evaluations conducted over the next few interims. The board last underwent a full evaluation as part of sunset review in 1991. The board underwent a preliminary evaluation in 2000, which concluded that the board was successfully fulfilling its statutory responsibilities and recommended that it be waived from full evaluation. Chapter 73 of 2001 extended the board’s termination date to July 1, 2013.

In conducting this preliminary evaluation, DLS staff reviewed applicable State law and regulations; recent legislative and regulatory actions; prior full and preliminary sunset reviews; annual reports submitted by the Department of Labor, Licensing, and Regulation (DLLR) related to the State Occupational and Professional Licensing Design Boards’ Fund; and information provided related to board expenditures, revenues, licensing, examinations, complaints, and disciplinary actions. In addition, DLS staff communicated by phone and e-mail with the chairman of the board, board administrative staff, the Deputy Commissioner of Labor, Licensing, and Regulation, and the Executive Director of the Maryland Society of Surveyors. The board reviewed a draft of this preliminary evaluation and provided the written comments attached at the end of this document as **Appendix 2**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in board comments may not reflect the final version of the report.

Prepared by: Ryane M. Necessary • Department of Legislative Services • Office of Policy Analysis
December 2009

The Practice of Land Surveying

The practice of land surveying generally refers to the practice of establishing official land, air space, and water boundaries. It includes measuring and locating lines, elevations, or other features in the air, on land, underground, and on the beds of bodies of water for the purpose of providing data relevant to the shape, contour, location, elevation, or dimension of land. In practice, professional land surveyors are responsible for platting, locating, or setting the monumentation for boundaries of real property, easements, or rights-of-way. They write descriptions of land for deeds, leases, and other legal documents. They are a key part in the development of site plans for construction, including the design of road and street grades, sediment and erosion control measures, and stormwater management systems.

Surveying land dates back to ancient times, when it was used primarily to divide land for the purpose of taxation. Back then, and over the years, surveyors used chains, compasses, transits, and plumb bobs. Today, surveys are required for most major construction projects, including highways, buildings, and bridges. With major advancements in technology, today's professional land surveyors primarily use computerized measuring devices or systems, including global positioning systems and geographic information systems to perform their work.

All 50 states, as well as the District of Columbia and U.S. territories, license professional land surveyors. Most state licensing boards require individuals to pass a written examination given by the National Council of Examiners for Engineering and Surveying (NCEES) and a written examination prepared by the state licensing board. In addition, most applicants must meet varying standards of formal education and work experience in the field. Most individuals prepare for a career as a professional land surveyor by combining postsecondary school courses in surveying with extensive on-the-job training. However, about 25 universities now offer four-year programs leading to a Bachelor of Science degree in surveying. Additionally, junior and community colleges, technical institutes, and vocational schools frequently offer one-, two-, and three-year programs in surveying.

The land surveying industry has close ties to the engineering and construction industry. Major federal government employers of professional land surveyors include the U.S. Geological Survey, Army Corps of Engineers, and Federal Emergency Management Agency. Surveyors in state and local government can work for highway departments, urban planning and redevelopment agencies, and public utilities. Private-sector employment opportunities include construction, engineering, and architecture firms, and mining, oil, and gas extraction companies.

The State Board for Professional Land Surveyors

Regulation of land surveying is necessary to enhance the safety of the general public by protecting consumers from potential financial risks that may be caused by unqualified and incompetent practitioners. Surveys play an integral role in the construction of major infrastructure projects. Inaccuracies in land surveying can create safety hazards for the general public and, in some cases, environmental harm. For example, careful storm drain and road grade

design is particularly important within the Chesapeake Bay watershed, where stormwater runoff is a significant contributor of nutrient pollution in the bay and its tributaries.

Further, accurate boundaries are essential for the proper conveyance of real estate and the determination of individual property ownership. Misplaced property boundaries can cause significant financial and property loss. In some instances, these losses are apparent immediately, but in other instances, the harm may not be detected for several years. This can impact both current and future property owners, including neighboring property owners.

Maryland has regulated the practice of land surveying since 1939. Initially, the licensure of professional land surveyors and professional engineers was effectuated through a joint board. In 1977, an independent board for the registration of professional land surveyors was established under Article 56 § 330(b). In 1989, it was recodified in § 15-101(b) of the Business Occupations and Professions Article, where it remains today.

Board Is One of Five “Design Boards” within DLLR

The board is currently one of five “design boards” within DLLR. The board’s primary purpose is to license and regulate the practice of land surveying in the State, and its major functions are examining, licensing, and disciplining members of the profession. As shown in **Exhibit 1**, the board currently licenses and permits approximately 1,012 individuals, partnerships, and corporations in Maryland.

Exhibit 1 Number of Licenses and Permits Held – By Type Fiscal 2009

<u>License/Permit Type</u>	<u>Number of Licenses/Permits</u>
Professional Land Surveyor (License)	445
Property Line Surveyor (License)	283
Professional Land Surveyor – Retired Status (License)	29
Property Line Surveyor – Retired Status (License)	14
Partnership (Permit)	5
Corporation (Permit)	195
Limited Liability Partnership (Permit)	2
Limited Liability Corporation (Permit)	39
Total	1,012

Source: State Board for Professional Land Surveyors

The board consists of six members appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation and the Senate. Of the six members, three must be professional land surveyors, one must be a licensed property line surveyor, and two must be consumers. The Governor may appoint each of the professional members from a list of at least three names submitted to the Secretary by the Maryland Society of Surveyors. Each consumer member may not be a licensee or otherwise subject to regulation by the board, may not be required to meet the qualifications for the professional members of the board, and may not, within the year before appointment, have had a financial interest in or have received compensation from a person regulated by the board. In addition, while serving as a member of the board, a consumer member may not have a financial interest in or receive compensation from a person regulated by the board, or grade any examination given by or for the board.

Board members serve five-year terms that begin on July 1. The terms of board members are staggered and, at the end of a term, a member continues to serve until a successor is appointed and qualifies. Further, a board member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. The Governor may remove a board member for incompetence, misconduct, neglect of duties, or other good cause.

Board Members Do Not Receive Formal Training Prior to Service

Previous evaluations of the board recommended that board members should receive some level of formalized training to properly prepare them to carry out their duties. Board members need a working familiarity with the governing statutes and regulations for the board, as well as a working knowledge in the technical areas of the profession. DLLR has developed a board member training manual that is used as a basis for a training session conducted by the Deputy Commissioner and Principal Counsel of DLLR. However, DLLR is focusing its training efforts on those boards with significant turnover and a high percentage of new members. As a result, in October, DLLR provided board member training for the State Commission of Real Estate Appraisers and Home Inspectors. However, to date, DLLR has not offered board member training for members of the State Board for Professional Land Surveyors. **DLLR should provide training for members of the State Board for Professional Land Surveyors.**

Board Works Well with Professional Association

The board maintains a close working relationship with the Maryland Society of Surveyors, the primary professional society for land surveying in the State. Society members regularly attend board meetings and communicate effectively with the board. **The board should continue to maintain and foster its relationship with the Maryland Society of Surveyors, for the benefit of licensees and the profession of land surveying in the State.**

Joint Chairs Committee Facilitates Communication Among Design Boards

The chairman of the board is required to meet annually with the other four design board chairmen to discuss issues of mutual importance and publish a joint newsletter. The other four design boards include the State Board of Architects, State Board of Certified Interior Designers, State Board of Examiners of Landscape Architects, and State Board for Professional Engineers. In practice, the Joint Chairs Committee meets several times a year and has proven to be a useful and efficient way for the design boards to communicate amongst themselves and with DLLR. **The Joint Chairs Committee should continue to serve as a forum for the design boards to share ideas, work cooperatively, and support the combined interests of the design industry as a whole in the State.**

Major Legislative Changes Affecting the Board Since the 2000 Sunset Review

Since the last sunset review, several statutory changes have affected the board. As shown in **Exhibit 2**, the major legislative changes relate to penalties, scope of practice, professional competency requirements, licensing, and the setting and collection of licensing fees.

Exhibit 2
Major Legislative Changes Since the 2000 Preliminary Evaluation

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2001	73	Extends the termination date of the board by 10 years to July 1, 2013.
	187	Increases maximum penalties for applicants, licensees, and nonlicensees for violations of licensing laws from \$1,000 to \$5,000 per violation.
	193	Clarifies the scope of practice for professional land surveyors and licensed property line surveyors.
2001	601	Specifies that a professional land surveyor or property line surveyor who is licensed for the first time does not have to meet continuing professional competency requirements until the second renewal period of the surveyor's license. Makes the continuing professional competency requirements for surveyors permanent by repealing a two-year termination provision.
2003	227	Requires the chairs of the five design boards to meet annually to discuss issues of mutual importance and post a joint newsletter on the DLLR web site. Establishes a State Occupational and Professional Licensing Design Boards' Fund, a special fund for the collection of license and permit fees from the five design boards. Repeals license and permit fees set in statute and instead requires the Secretary of Labor, Licensing, and Regulation to calculate the direct and indirect costs attributable to each of the design boards and to establish fees based on those calculations. Caps any fee increase by a design board at no more than 12.5% annually.
2003	384	Repeals the authority of the board to issue temporary and limited licenses. Repeals the two-year statutory waiting period for reexamination after two exam failures and instead authorizes reexamination upon submittal of updated work experience. Repeals the right of an applicant to a conference with a board member after three exam failures. Creates a retired land or property line surveyor status for specified licensees and authorizes the board to reactivate the license of a retired status license under certain circumstances.
2005	129	Lowers the standard for specified disciplinary actions against a land surveyor or property line surveyor applicant or licensee by removing the requirement that an individual "knowingly" committed a violation. Broadens the scope of violations by making a violation of any regulation the basis for a disciplinary action.
2008	273	Extends the termination date to June 30, 2013, for the special fund that serves all five design boards and related provisions, including the board's fee-setting authority.

Note: The five design boards include the State Board for Professional Land Surveyors, State Board of Architects, State Board of Certified Interior Designers, State Board of Examiners of Landscape Architects, and State Board for Professional Engineers.

Source: Laws of Maryland

Licensing of Professional Land Surveyors

Board Issues Two Types of New Licenses and Permits to Businesses

The board currently issues two types of new licenses – a land surveyor license and a retired status license. It also issues permits to land surveying businesses. The licenses and permits are valid for two years. The number of total licenses and permits held has remained relatively constant over the years, as shown in **Exhibit 3**.

Exhibit 3
Number of Licenses and Permits Held
Fiscal 2000 and 2009

	<u>FY 2000</u>	<u>FY 2009</u>	<u>Percent Change</u>
Individual Licenses	836	771	-7.8%
Corporate Permits	176	234	33.1%
Partnership Permits	6	7	16.7%
Total	1,018	1,012	-1.0%

Note: These figures include one limited license land surveyor. The board stopped issuing limited land surveyor licenses in 2003.

Source: State Board for Professional Land Surveyors

The land surveyor license is issued to individuals for the practice of land surveying. The retired status license is issued to licensed professional land surveyors or property line surveyors who:

- have been licensed as a professional land surveyor or property line surveyor, or have been authorized to practice land surveying or property line surveying under certain circumstances for at least 25 years, of which five years were in Maryland;
- are not subject to a pending disciplinary action relating to land or property line surveying; and
- submit an application and license fee to the board.

The holder of a retired status license may not practice land or property line surveying in the State; however, the licensee may use the title “Retired Professional Land Surveyor” or “Retired

Property Line Surveyor.” The board may reactivate the status of a retired licensee if the licensee meets several conditions, including meeting all continuing competency requirements and paying a fee set by the board.

A corporation, partnership, or limited liability company (LLC) must hold a permit issued by the board before it may operate a business through which an individual may practice land surveying or property line surveying. If the corporation, partnership, or LLC submits an application and application fee to the board, the board may issue a permit that authorizes the corporation, partnership, or LLC to operate a business through which land surveying and property line surveying is practiced and represent to the public that the permit holder provides the services of a professional land surveyor or professional property line surveyor.

Prior to July 1, 1990, the board issued a property line surveyor license. A property line surveyor provides the same land surveying service to the public as a land surveyor, with the exception of storm drain and road grade design. Property line surveyors who were licensed prior to June 30, 1990, are allowed to renew their licenses. The number of licensed property line surveyors has decreased since the board ceased issuing new licenses in 1990.

Board No Longer Issues Limited and Temporary Licenses

Prior to 2003, the board issued limited and temporary licenses. These licenses authorized land surveyors who were licensed to practice in another state to work on specific jobs in Maryland for a short period of time (usually one year or less). The authority to issue these licenses was repealed by Chapter 384 of 2003 because the board was issuing fewer than 10 limited and temporary licenses annually.

Applicants for Licensure May Qualify Via Four Options

Applicants for licensure must first qualify by meeting specified educational, examination, and work experience requirements. Applicants must also pass written examinations. **Exhibit 4** describes the four ways that an individual may qualify for a license. The board offers reciprocity for specified out-of-state licensees and mandates continuing professional competency requirements for licensees.

Exhibit 4

Four Ways to Qualify for Licensure

Applicants for licensure are required to complete the requirements of the chosen option in the order listed.

Approved Curriculum

- Graduate from a college or university with at least a four-year curriculum in land surveying
- Pass fundamentals of land surveying written examination
- Have two years satisfactory experience in land surveying
- Pass principles and practice of land surveying written examination

Regional Accrediting Association Curriculum

- Graduate upon completion of at least a four-year curriculum from a college or university
- Pass fundamentals of land surveying written examination
- Have four years satisfactory experience in land surveying
- Pass principles and practice of land surveying written examination

Nonacademic – Work Experience

- Graduate from high school or equivalent
- Have 12 years satisfactory experience in land surveying*
- Pass principles and practice of land surveying written examination

Nonacademic – Work Experience and Testing

- Graduate from high school or equivalent
- Have four years satisfactory experience in land surveying*
- Pass fundamentals of land surveying written examination
- Have an additional four years satisfactory experience in land surveying
- Pass principles and practice of land surveying written examination

*For each 30 semester hours of completed land surveying courses, the board may allow a one-year credit toward the experience requirement for a maximum of three years. Further, §§ 15-301 and 15-303 of the Business Occupations and Professions Article authorize a person to gain the experience required for licensure if they practice land surveying: (1) while performing official duties as an officer or employee of the federal government; or (2) as an employee or other subordinate of a licensee under specified conditions.

Source: Laws of Maryland

Applicants Must Pass National and Local Examinations

Applicants for licensure must pass both national and State written examinations. The current schedule of examination fees is provided in **Appendix 2**. NCEES, a national nonprofit organization composed of engineering and surveying boards develops and scores two separate, written examinations – the fundamentals of land surveying and the principles and practice of surveying – which are administered by the board. The board develops, scores, and administers two separate written examinations, one regarding Maryland law and ethical issues and one regarding storm drain and road grade design. Examinations are held twice a year – in April and October. An applicant who fails an examination may retake it six months later on the next examination date. However, an applicant who fails the exam three times is required to submit proof to the board of additional work experience prior to retaking the exam.

Reciprocity Is Available for Out-of-state Licensees

The board is authorized to waive the examination requirements for applicants who pay an application fee and provide adequate evidence that, at the time the applicant was licensed by the other state, the applicant met requirements that were equivalent to those required by the laws of this State.

Continuing Professional Competency Units Required for License Renewal

Chapter 601 of 2001 established permanent continuing professional competency (CPC) requirements prior to license renewal. Except for those applicants who are applying for renewal for the first time, a licensee is required to complete a minimum of 24 CPC units in each individual two-year licensing term as a condition of license renewal. A CPC equates to one hour of instruction, presentation, or other activity. Regulations specify the numbers of CPCs needed in certain program areas and also specify the content of the program areas. An applicant can convert specified college credit to CPCs, as well as published papers or books on land surveying. The board has a CPC Standards Committee to approve providers of CPC units.

A licensee may request, in writing, an extension of time in which to complete the CPC requirements as long as the request is made at least four months before license expiration. The board may only grant an extension and continue a license if it determines that the failure to fulfill the requirements is clearly a result of illness, a procedural or technical difficulty, circumstances beyond the control of the licensee, or other reasons that the board finds appropriate, and that the licensee appropriately attempted to meet the requirements.

Board Effectively Handles Enforcement

The board effectively handles its enforcement and disciplinary functions. As shown in **Exhibit 5**, the board has handled an average of 12 complaints annually since 2005. The majority

of these complaints are for alleged violations of the minimum standards of practice and were closed after a finding of no violation or a lack of basis for disciplinary action. Other complaints were resolved informally by the board by sending letters of reprimand, or, in some cases, by executing consent orders. The board has a computerized complaint activity log that tracks complaints as they are received, investigated, or closed. As of November 2009, there were three pending complaints – one from fiscal 2008 and two from fiscal 2009.

Exhibit 5
Board Activity
Fiscal 2005-2009

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>	<u>Average</u>
Applications processed	418	691	624	679	623	3,035	607
Exams administered	125	144	147	136	166	718	144
Licenses/permits issued	433	509	451	554	495	2,442	488
Licenses/permits denied, revoked, or suspended	4	11	6	18	12	51	10
Hearings held	0	1	1	0	0	2	0
Complaints handled	12	10	13	15	8	58	12
Board meetings held	12	12	12	11	11	58	12

Source: Department of Labor, Licensing, and Regulation

The board has a standing Complaint Committee to handle complaints. It consists of one consumer member, one professional land surveyor member, and counsel from the Office of the Attorney General in DLLR. The Complaint Committee provides a mechanism by which board members can review the complaints without prejudice to the parties. The committee reviews all complaints submitted to the board and makes recommendations to the whole board as to whether a complaint against a licensee should be dismissed, investigated, or charged. Complaint Committee members may be recused from participating in a formal hearing at the request of the respondent.

The complaint committee may refer a complaint to an investigator in DLLR for further investigation. Until recently, the investigator position for the design boards was vacant for an 18-month period because DLLR had a difficult time with recruitment and retention for the position. However, an investigator was hired in July 2009. The investigator handles design board complaints on a priority basis, as well as complaints for other boards as his schedule permits. In addition, if the Complaint Committee believes that a licensee or an applicant may have violated State law or regulations, the Complaint Committee will refer the complaint to the Assistant Attorney General for review for possible administrative charges.

Investigations may result in the board bringing charges against a licensee based on violations of State licensing law or regulations. The board may also bring charges against unlicensed individuals for practicing professional land surveying or property line surveying without a license. If charges are brought, hearings can take place before the full board, or the board may delegate its authority to hear a particular case to the Office of Administrative Hearings. The penalties that the board may impose include reprimand, suspension, license revocation, and fines.

The board also effectively uses a number of informal consent arrangements with licensees, including participation in additional continuing competency activities, working under close supervision of another licensed surveyor, and submitting progress reports to the board. The board has found that these approaches result in a higher rate of compliance and serve as a useful educational tool. **The board should continue its proactive approach to enforcement using both formal and informal avenues.**

Available Resources Adequately Cover Board Operations

A pilot program established by Chapter 227 of 2003 created a State Occupational and Professional Licensing Design Boards' Fund to ensure that costs for the five design boards, in the aggregate, were covered by their revenues, in the aggregate. The fund and fee-setting authority were set to terminate on June 30, 2008; however, Chapter 273 of 2008 extended the termination date for the special fund to June 30, 2013. Prior to the enactment of Chapter 227, the fees for the board were set in statute, the revenues were credited to the general fund, and the Governor included a general fund allowance for the board within the budget of DLLR.

Since 2003, the Secretary of Labor, Licensing, and Regulation has been charged with annually calculating the direct and indirect costs attributable to each of the design boards and providing this information to the boards. With consent of the boards, the Secretary is authorized to average the direct and indirect costs among the boards in order to establish fees that more equitably distribute the costs associated with the operation of each board across all five boards. With these calculations in mind, the board is charged with setting reasonable fees for its services by regulation. The fees charged are required to be set so as to produce funds to approximate the cost of maintaining the boards and may not be increased more than 12.5% over the previous year's fees.

In 2007, the design boards determined that the fund balance merited a fee reduction, and the across-the-board license fee of \$78 was reduced to the current fee of \$68, as shown in **Exhibit 6**. These fees are also available on the board's web site.

Exhibit 6
Schedule of License and Permit Fees

<u>Type of License/Fee</u>	<u>Fee</u>
Nonrefundable Application Fee – New License	\$35
Nonrefundable Application Fee – License by Reciprocity	50
License Fee (and license renewal fee)	68
Permit Fee – Business Entity (and license renewal fee)	100
Reinstatement Fee (for expired licenses)	100
Retired Status License Fee	25
Reactivation from Retired Status*	100
Verification Fee	20
Replacement Certificate Fee	35

*The \$100 fee is for each lapsed licensing period, not to exceed \$300.

Source: COMAR 09.13.05.03 and .04

Board Expenditures Consistently Exceed Revenues

As shown in **Exhibit 7**, the board's expenditures continue to exceed its revenues. However, because the board's revenues are combined with the revenues of the other design boards, it does not actually operate with a deficit. This was the legislative intent of Chapter 227, which created the special fund. The design boards' special fund ended fiscal 2009 with a surplus of \$679,991.

The board's direct costs include salaries and health insurance for staff, office supplies, and legal fees from the Office of the Attorney General within DLLR. The board's indirect costs are incurred at the departmental level, and include costs for activities and services related to budget, personnel, general services, and the Office of the Secretary. Indirect costs are allocated to each board by the Secretary's office using a federal cost allocation formula. In addition, the Secretary's office generates the occupational and professional (O&P) cost allocation for each board in DLLR, which reflects the costs incurred at the level of the Division of Occupational and Professional Licensing within DLLR, including central licensing, the telephone center, the

commissioner's office, and information technology costs. The O&P cost allocation is determined by a formula that, among other things, considers the number of licensees and the number of employees who support each board.

Exhibit 7
Fiscal History of the State Board of Professional Land Surveyors
Fiscal 2004-2009

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Total Revenues	\$49,359	\$42,517	\$47,394	\$42,748	\$49,609	\$51,281
Total Costs	166,553	122,617	203,332	197,855	135,082	121,056
Direct Costs	159,682	90,005	108,264	176,207	115,775	103,773
Indirect Costs	0	12,700	20,798	12,191	7,145	6,904
O&P Cost Allocation	6,871	19,912	74,270	9,457	12,162	10,379
Surplus/(Deficit)	(117,194)	(80,100)	(155,938)	(155,107)	(85,473)	(69,775)

Source: Department of Labor, Licensing, and Regulation

An executive director oversees all five design boards. Likewise, an assistant executive director, an investigator, and three contractual employees – an office secretary, an examination coordinator, and an outreach coordinator – are shared among the design boards. The secretary of the board also serves as the Secretary to the State Board of Examiners of Landscape Architects. This level of staffing is adequate but could be increased. Because the board must go through DLLR for its expenditures, hiring additional staff and procuring office equipment has been difficult at times. **The board should improve communications and continue to work cooperatively with DLLR regarding its needs, including ways for the board to maintain or improve adequate levels of staffing and to procure necessary office equipment, while remaining sensitive to recent State budgetary challenges. DLLR should continue to keep the board updated with information relating to the finances of the Occupational and Professional Licensing Design Boards' Fund.**

Recommendations

The regulation of the professional land surveying industry continues to benefit the citizens of Maryland. The board should continue to foster its relationship with the Maryland Society of Surveyors, for the benefit of licensees and the profession of land surveying in the State. The Joint Chairs Committee should continue to serve as a forum for the design boards to share ideas, work cooperatively, and support the combined interests of the design industry as a

whole in the State. The board should continue its proactive approach to enforcement through the use of the complaint committee. Finally, the board should strive to improve communications and continue to work cooperatively with DLLR regarding its needs, including ways for the board to maintain or improve adequate levels of staffing and to procure necessary office equipment, while remaining sensitive to recent State budgetary challenges. DLLR should continue to keep the board updated with information relating to the finances of the Occupational and Professional Licensing Design Boards' Fund.

The State Board for Professional Land Surveyors is fulfilling its statutory duties to the best of its abilities. **Therefore, the Department of Legislative Services recommends that the Legislative Policy Committee waive the State Board for Professional Land Surveyors from full evaluation and that legislation be enacted to extend the board's termination date by 11 years to July 1, 2024.** Thus, another preliminary evaluation would be conducted in 2021.

However, this evaluation has identified one outstanding issue which should be considered by the board and DLLR. For years, the board has expressed interest in the implementation of general board member training to provide a strong foundation of knowledge related to the duties and functions required of board members. Furthermore, DLS recommended the implementation of board member training in previous sunset evaluations conducted for the board in 1991 and 2000. To date, however, members of the board have not been offered any board member training opportunities. **DLS recommends that the board and DLLR, submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by October 1, 2011, on its plans to implement board member training.**

Appendix 1. Schedule of Examination Fees

<u>Section of Examination</u>	<u>Fee</u>
Nonrefundable Testing Service Fee	\$60
Fundamentals of Land Surveying	100
Surveyor – Principles and Practice	165
Surveyor – Maryland Law and Ethics Issues	35
Surveyor – Maryland Storm Drain and Road Grade	35

Source: COMAR 09.13.05.03

**Appendix 2. Written Comments of the
State Board for Professional Land Surveyors**



MARTIN O'MALLEY, Governor
ANTHONY G. BROWN, Lt. Governor
ALEXANDER M. SANCHEZ, Secretary

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December 1, 2009

Ms. Jennifer B. Chasse
Senior Policy Analyst
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401-1991

Dear Ms. Chasse:

The Department of Labor, Licensing and Regulation (DLLR) has received the draft report of the Preliminary Evaluation of the State Board for Professional Land Surveyors (the "Board"). We appreciate the time and attention that was spent reviewing the Board's operations.

We are pleased that the Report found that the Board is fulfilling its statutory duties to the best of its abilities and recommended that the Legislative Policy Committee waive the Board's full evaluation. Furthermore, we are pleased that legislation will be enacted to extend the Board's termination date by 11 years to July 1, 2024.

After review of the Report, we have found the following factual errors/discrepancies:

On *Page 7*, after Exhibit 3, the words "or property line surveyor" at the end of the first full sentence should be deleted as the Board no longer issues licenses to property line surveyors.

On *Page 8* and throughout the remainder of the Report, the Report accurately indicates that corporations and partnerships must hold a permit in order to offer land surveying services. However, the Report fails to include limited liability companies in that category.

On *Page 10*, first paragraph, the Report incorrectly notes that "the board develops, scores, and administers a two-part written examination" when in fact, the Board develops two separate state specific examinations; one exam focuses on Maryland Law and Ethical Issues while the other exam focuses on Storm Drain and Road Grade Design.

On *Page 11* the last paragraph inaccurately indicates that "a contractual investigator was hired in July." The Report should instead indicate that the position of the investigator is a permanent position.

On *Page 11*, in the last paragraph the description of the complaint process is slightly confusing. We wish to clarify the description of the process by noting that the Board cannot directly send a complaint to the Attorney General's Office without going through the Complaint Committee and, if appropriate, an investigation.

On *Page 12*, the first two paragraphs should be deleted and replaced as follows for clarification purposes:

”Investigations may result in the Board’s bringing charges against a licensee based on violations of the licensing statute and/or regulations. The Board may also bring charges against unlicensed individuals for practicing professional land surveying or property line surveying without a license. If charges are brought, hearings can take place before the full Board or the Board may delegate its authority to hear a particular case to the Office of Administrative Hearings. The penalties that the Board may impose include reprimand, suspension, license revocation, and fines.

The Board also has effectively used and continues to use a number of informal consent arrangements with licensees that resulted in licensees’ participating in additional continuing competency activities, working under close supervision of another licensed surveyor, submitting progress reports to the Board, and the like. The Board found that such approach often results in a higher rate of compliance and serves as a useful educational tool. **The Board should continue its proactive approach to enforcement using both formal and informal avenues.** “

On *Page 13*, under Exhibit 6, the Report incorrectly refers to the replacement certificate fee as a replacement license fee.

On *Page 14*, the Report correctly notes the staffing of the professional design boards staff with one exception: the secretary of the Board also serves as the secretary to the State Board of Examiners of Landscape Architects.

We also note that the Report has identified one outstanding issue to be considered by the Board and DLLR with regard to the training of Board members. This issue has also been identified in the 1991 and 2000 sunset evaluations. As recommended, DLLR and the Board will submit a follow-up report to the Legislative Policy Committee by October 1, 2011 addressing this issue and identifying plans to implement board member training.

We would like to express our appreciation for the candor and professionalism provided by your office in conducting this review. We look forward to working with the legislative staff addressing issues that were raised in the Report as well as any other future issues that may arise. If your office should require additional information or a clarification as to the corrections, please do not hesitate to contact me at (410) 230-6262.

Sincerely,

Jay Hutchins
Executive Director
Professional Licensing Boards

Cc: Secretary Alex Sanchez
Commissioner Stanley Botts
Deputy Commissioner Harry Loleas
Dr. Charles E. Maloy, Ed.D, Chairman
Milena Y. Trust, Assistant Attorney General