

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS DEPARTMENT OF LABOR AND INDUSTRY STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON ARM 24.183.404 pertaining to fee) PROPOSED AMENDMENT schedule)

TO: All Concerned Persons

1. On May 25, 2022, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rule. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting: https://mt-gov.zoom.us/j/87919393825 Meeting ID: 879 1939 3825, Passcode: 162125 -OR- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656 Meeting ID: 879 1939 3825, Passcode: 162125

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Professional Engineers and Professional Land Surveyors no later than 5:00 p.m., on May 18, 2022, to advise us of the nature of the accommodation that you need. Please contact Sam Hunthausen, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 711; facsimile (406) 841-2305; or dlibsdpels@mt.gov.

3. The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

- 24.183.404 FEE SCHEDULE (1) remains the same. (2) Fees are: (a) Engineer ~~interns~~ intern (EI) initial application \$25 (b) Land surveyor ~~interns~~ intern (LSI) initial application 25 (c) Professional ~~engineers~~ engineer (PE) initial application 75 (i) ~~Initial application~~ 400 (ii) ~~Application by comity~~ 450 (d) Professional land ~~surveyors~~ surveyor (PLS) initial application 75 (i) ~~Initial application~~ 400 (ii) and (iii) remain the same but are renumbered (i) and (ii).

(iv) Application by comity	200
(e) Certificate of authorization	
(i) Initial application	400 <u>75</u>
(ii) remains the same	
(f) Biennial renewal fees	
(i) PE	400 <u>75</u>
(ii) PLS	400 <u>75</u>
(iii) Engineer-surveyor	420 <u>75</u>
(iv) EI, LSI	25
(g) Miscellaneous fees	
(i) Continuing education review for conversion of a license to active status	60
(ii) and (iii) remain the same but are renumbered (i) and (ii).	
(3) remains the same.	

AUTH: 37-1-134, 37-67-202, 37-67-322, 37-67-327, MCA

IMP: 37-1-134, 37-1-141, 37-1-319, 37-67-312, 37-67-313, 37-67-322, 37-67-327, MCA

REASON: The board determined it is reasonably necessary to amend this rule to equalize application fees for exam and comity applicants as processing costs for both types of applications remain similar. This will simplify the fee schedule while helping to ensure that professionals seeking to enter Montana are not unnecessarily discouraged from doing so.

The board is reducing fees to comply with 37-1-134, MCA, and ensure the fees provide the money usually needed for board operations. The board is also required to comply with 17-2-302 and 17-2-303, MCA, by not allowing its cash balance to exceed twice the annual appropriation amount. Following the abatement of 100% of license renewal fees through a full renewal cycle, it is necessary to reduce fees as the board's cash balance is exceeding two times its appropriation.

The board is not reducing any \$25 fees as collecting fees in amounts less than \$25 does not justify the department costs of processing of them. The Montana state-specific land surveyor examination fee remains unchanged since the board contracts with administrators for this exam, and the registration fees are set by contract. The fee changes will allow the board to gradually reduce its cash balance to meet the statutory requirements while ensuring adequate revenue to support board activities through the next biennium. The department will continue to monitor funding levels to ensure needs are met. The board estimates the fee changes will affect approximately 8,149 licensees and 968 license applicants annually, and reduce annual revenue by approximately \$159,407 in fiscal year 2023 and \$162,596 in fiscal year 2024.

For over ten years, the fee for board review of continuing education when converting to active status has not been assessed because no licensees have requested conversion. The board is eliminating the fee and will absorb the minimal associated costs of any future reviews.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Professional Engineers and Professional Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to sam.hunthausen@mt.gov, and must be received no later than 5:00 p.m., May 27, 2022.

5. An electronic copy of this notice of public hearing is available at <https://boards.bsd.dli.mt.gov/professional-engineers-land-surveyors/>. Although the department strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons wishing to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies the intent to receive notices of all board administrative rulemaking proceedings or a particular subject matter. The request must indicate whether e-mail or standard mail is preferred and may be sent or delivered to the Board of Professional Engineers and Professional Land Surveyors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to (406) 841-2305; e-mailed to sam.hunthausen@mt.gov; or by completing a request form at any rules hearing held by the board.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Regarding the requirements of 2-4-111, MCA, the board has determined the proposed rule changes will significantly and directly impact small businesses and prepared a small business impact analysis. The board identified two classes of small businesses impacted by the fee changes as engineers and land surveyors operating as sole proprietorships, especially when obtaining a Montana license solely to perform work for one project, and engineering firms of all types that reimburse license fees as an employee benefit. Approximately 8,149 licensees and 968 applicants will be affected by the changes over the next year. Additionally, 1,103 businesses with certificates of authorization will be impacted, and the board believes most of these are considered small businesses. The proposed changes reduce fees for certificates of authorization and for initial licensure and biennial renewal of professional land surveyors and professional engineers. The board initially discussed whether equalizing fees for "by exam" and "by comity" applicants was the most equitable way to reduce fees, as opposed to reducing fees for both pathways by an equal percentage. The board conducted a budget analysis, and in the interest of red tape reduction and updating fees to reflect the similar costs to process applications, the board concluded that setting one fee for both pathways was equitable. Lastly, the board noted that the impact to small businesses will be

positive, as fees are being reduced. The board has no alternative methods that may be implemented at this time.

9. Department staff has been designated to preside over and conduct this hearing.

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
RONALD DRAKE, P.E., PRESIDING
OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 19, 2022.