

Georgia Occupational Regulation
Review Council

House Bill 476, LC 36 4701S
Georgia Professional Engineers
and Land Surveyors Board Act

A Review of the Proposed Legislation

OCTOBER 2021

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Executive Summary

As provided in O.C.G.A. §43-1A, the Georgia Occupational Regulation Review Council (Council) reviews all bills proposing licensure of a profession or business referred to by the chairperson of the legislative committee of reference. Accordingly, the Council, at the request of the chairperson of the House Regulated Industries Committee, has reviewed House Bill 476, which proposes the removal of the State Board of Registration for Professional Engineers and Land Surveyors from within the Secretary of State's Office to be an independent budgeted unit, administratively attached to the Secretary of State.

During the course of this review, Council staff obtained information from the applicant group, the American Council of Engineering Companies of Georgia (ACEC), the State Board of Registration for Professional Engineers and Land Surveyors Board (PELS Board), The Surveying and Mapping Society of Georgia (SAMSOG), and the Office of the Secretary of State while also conducting internal research.

O.C.G.A. §43-1A-6 requires the Council to consider certain criteria when determining the need for the regulation of a business or profession. For this review, the Council used these criteria to guide the development of findings related to the removal of the State Board of Registration for Professional Engineers and Land Surveyors from within the Secretary of State's Office to be an independent budgeted unit, administratively attached to the Secretary of State. The Council, with assistance from staff, developed the following findings during this review:

❖ **The State Board of Registration for Professional Engineers and Land Surveyors, as currently operated within the Office of the Secretary of State, presents a potential for harm.**

There are instances where delays of enforcement for engineering and surveying violations are a threat to public health and safety. Council notes that specifics were not presented.

❖ **The State Board of Registration for Professional Engineers and Land Surveyors, as a separate budgetary unit as proposed in HB 476, presents a potential for harm.**

Were the PELS Board to become an independent board, they would still be subject to the same appropriations process and potentially could deal with the same staffing concerns. Also, as mentioned below, the drastic increase in the verbally proposed cost of a license could pose a barrier for entry for some in the profession. Council finds any rule change regarding license fees should be subject to the Georgia Professional Regulation Reform Act.

❖ **The practice of professional engineering and land surveying requires specialized training.**

The PELS Board has been setting the standard for licensure and continuing education for their licensees since 1937, these would continue if the board were to stay located within PLB or be removed to an independent budgetary unit.

❖ **The economic impact of removing the State Board of Registration for Professional Engineers and Land Surveyors from within the Secretary of State's Office to be an independent budgetary unit would increase costs to do business for Georgians.**

The increase in licensing fees would increase the cost for licensees by 400% who could pass on that increase to citizens in the cost of work. Further, due to the loss of economies of scale, the costs for business products would increase when removed from the PLB. A trend, if continued would raise the cost of doing business in the state for many professions.

❖ **There are currently means other than regulation under the Professional Licensing Board Division to protect the interests of the state.**

There is precedence for professions to establish independent boards, only administratively attached to the SOS.

Based on these findings, the Council does not recommend HB 476, LC 36 4701S pass as currently written. Rather, the Council strongly recommends an increase in funding for human and fiscal resources to increase responsiveness and action to PELS Members.

The vote was 5-2, with two members absent.

Georgia Occupational Regulation Review Council Membership 2021

Standing Members

Representing

Anna Wrigley Miller, Chairwoman

Office of Planning and Budget

Kelly Dudley

State Accounting Office

Bo Warren

Department of Agriculture

Stephen DeBaun

Department of Revenue

Kate Iannuzzi

Department of Natural Resources

Megan Andrews

Department of Public Health

Sam Teasley

Office of the Secretary of State

Legislative Members

Representative Ginny Erhardt

Georgia House of Representatives

Senator Ben Watson

Georgia State Senate

Introduction

House Bill (HB) 476 would amend Chapter 15 of Title 43 to establish the Georgia Professional Engineers and Land Surveyors Board as an independent state agency attached to the Secretary of State (SOS) for administrative purposes only.

This report focuses on providing information concerning the nature of the legislation and presents an assessment of the need for such in the state of Georgia.

In conducting this review, the Georgia Occupational Regulation Review Council, referred to as Council for the remainder of this report, solicited input from any interested party that wished to submit information or participate in the process. Council staff obtained information from the applicant group, the American Council of Engineering Companies of Georgia (ACEC), the State Board of Registration for Professional Engineers and Land Surveyors Board (PELS Board), The Surveying and Mapping Society of Georgia (SAMSOG), the Georgia Society of Professional Engineers, and the Office of the Secretary of State (SOS) while also conducting internal research.

Council staff also performed additional analysis comparing how other state's PELS board equivalents are organized. Council staff looked to see if comparable boards were independent or associated under a larger state agency. It was found that comparable PELS Boards exist in all 50 states, and of those 20 states' boards are independent and stand alone.

These states are Alabama, Arizona, Arkansas, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Texas, Washington, West Virginia, Wyoming.

The Council provided representatives from interested parties with the opportunity to present information during Council meetings, either by verbal presentation and/or through written material. The Council posted meeting dates, times, and locations to the Office of Planning and Budget website (<https://opb.georgia.gov/georgia-occupational-regulation-review-council>).

Description of Proposed Legislation

HB 476 seeks to amend Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional engineers and land surveyors, so as to provide that the Georgia Professional Engineers and Land Surveyors Board is an independent state agency attached to the Secretary of State for administrative purposes only; to provide a short title; to provide for definitions; to provide for the powers and duties of the board; to authorize the board to employ an executive director; to provide for the powers and duties of the executive director; to revise provisions for purposes of conformity; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The bill provides the following:

- ❖ The Board shall be a separate and distinct budget unit under Part 1 of Article 4 of Chapter 12 of Title 45 of the O.C.G.A. but shall remain an attached agency for administrative purposes only to the SOS as provided in Code Section 50-4-3. The Board is not under the jurisdiction of the SOS nor the director of the professional licensing boards division of the SOS.
- ❖ The Board is responsible for enforcing the provisions of this chapter.
- ❖ The Board will appoint and compensate the Executive Director.
- ❖ Investigators hired by the Board through the Executive Director shall be considered a peace officer, but only authorized to carry firearms according to their duties with written approval from the Executive Director.
- ❖ Certificates of Registration of licenses will be renewable annually.
- ❖ The Executive Director will prepare and deliver a written annual report to the Governor and the Chairs of the House and Senate Appropriations Committees covering the activities of the previous calendar year. This will include all actions taken by the board, a financial report, staff personnel, and number of persons licensed by the board.

A complete summary of the bill can be found in Appendix A. A complete copy of the bill is in Appendix B.

Current Practices

Definitions of Professional Engineer, Structural Engineer, and Land Surveyor

A Professional Engineer (PE) is defined as an “individual who is qualified, by reason of knowledge of mathematics, the physical sciences, and the principles by which mechanical properties of matter are made useful to mankind in structure and machines, acquired by professional education and practical experience...”¹ In the Engineering Profession, a Professional Engineer License is the highest standard of competence. A Structural Engineer (SE) is defined as “professional engineer with specialized knowledge and experience in the practice of structural engineering².” Structural Engineering is the practice of a specialized branch of professional engineering involving the design or analysis of designated structures, as defined by the PELS Board. A Land Surveyor professional (LS) is defined as “an individual who is

¹ O.C.G.A § 43-15.2(9)

² O.C.G.A § 43-15.2(12)

qualified to engage in the practice of land surveying.”³ Land Surveying is the technique, profession, art, and science of establishing corners, lines, boundaries, and monuments of real property.

Becoming a Professional Engineer, Structural Engineer, or Land Surveyor

To be licensed as a PE or LS in the State of Georgia, a person must meet certain educational, experience, examination, and ethical requirements. These standards are set by the PELS Board and they are nationally standardized. After fulfilling the requirements set by the PELS Board and paying the appropriate fee, individuals receive their license from the state. The PELS Board also grants licenses to Land Surveyor and Engineer Firms as well as Engineers and Land Surveyors in-training. These are subject to similar nationally standardized requirements to be granted licensure.

The State Board of Registration for Professional Engineers and Land Surveyors

The State Board of Registration for Professional Engineers and Land Surveyors (PELS Board) was created in 1937 by the Georgia General Assembly to license Professional Engineers (PE) and Professional Land Surveyors (PLS). The Board consists of nine members appointed by the Governor for five-year terms. The members include: Six professional engineers, (including one structural engineer, one mechanical engineer, two civil engineers, and one from any discipline), two land surveyors, and one member from the public. The PELS Board is currently situated under the Professional Licensing Board (PLB) of the Secretary of State’s Office.

The PELS Board currently has all the powers and responsibilities of a licensure board. They adopt rules; set the standards for licensure; adopt mandatory standards of professional conduct and ethics; and investigate and discipline unauthorized, negligent, unethical, or incompetent practice. They review applications, administer examinations, and license qualified applicants.

The PELS Board is currently staffed by an Executive Director and three support staff members. The PELS Board oversees 46,751 in seven different license types. See Table 1, below, for a full breakout of Active licenses. The Attorney General’s Office is tasked with handling the legal matters of the PELS Board and all other boards under the purview of the PLB.

HB 476 does not propose any new regulation or licensing requirement, rather it is seeking to move the entire board from within PLB and be a separate budgetary unit, administratively attached to SOS.

Table 1. Active Licenses as of September 28, 2021

License Types	Licensees
Professional Engineer	23,948
Land Surveyor	1,221
Engineer Firm	3,140
Land Surveyor Firm	443
Engineer In-Training	16,369
Land Surveyor In-Training	333
Structural Engineer	1,270
Total	46,751

³ O.C.G.A § 43-15.2(11)

The Issue and Potential for Harm

The concern that brought forth the pending legislation, is that the PELS Board, and other supporting associations, believe that there is not enough staff through the Professional Licensing Board (PLB) of the Secretary of State's Office to adequately address their needs and concerns.

The PLB oversees 48 different professions, with 191 license types and 499 different methods to attain them (exams, reciprocities, etc.). There are 534,619 ⁴total licensees managed by the PLB, at the time of the writing of this report. These are grouped into ten different trade groups.

The PELS Board is part of the Trades 1 group. Included in their group are the Georgia State Board of Architects and Interior Designers, the Georgia State Board of Registration for Foresters, the Georgia State Board of Registration for Professional Geologists, The Georgia State Board of Landscape Architects, and the Georgia Board of Chiropractic Examiners. Therefore, the staff oversee five other groups in addition to the PELS Board. As it currently stands, there are no dedicated investigators to investigate complaints against engineers or surveyors.

For a comparison point, the Council researched how many licenses the other boards who share PLB staff oversee. Table 2 below shows the breakdown.

Table 2. Active Licenses as of September 29, 2021

Boards	Licensees
Board of Architects and Interior Designers	5,716
Board of Registration for Foresters	909
Board of Registration for Professional Geologists	1,058
Board of Landscape Architects	869
Board of Chiropractic Examiners	3,484
Professional Engineers and Land Surveyors Board	<u>46,751</u>
Total	<u>58,787</u>

ACES asserts that the primary reason for seeking to become an independent board is the threat to public health and safety currently in place. by a *"lack of investigation and enforcement of serious violations of engineering and land surveying regulation that are intended to protect the public"*.⁵ ACES states that in addition to the lack of investigations, PELS Board members have voiced concerns over the lack of responses to inquiries to the PLB in regard to when one can sit for exams and other status updates.

It was presented to the Council that, 'The lack of investigations puts the public at risk from the actions of bad actors. It has gotten to the point that members of the profession don't even bother with filing complaints because they assume that nothing will ultimately be done about them.'⁶ There was only one investigation brought before the PELS Board in 2020. In 2020 there were 25 complaints brought to the PELS Board. In 2019 there were 29, in 2018 there were 49, and in 2017 there were 84. Council notes the

⁴ This was the total number at the writing of this report. Numbers accessed on 9/29/2021.

⁵ ACEC GORRC Survey Response 9.17.21

⁶ Ibid.

rapid decline in complaints submitted to the PELS Board over the last four years. The number of investigations brought before the PELS board for previous years was not presented.

The Executive Director of the PELS Board highlighted a way that the PELS Board handles certain cases that would result in a complaint. When the PELS Board gets a complaint or finds out about a company offering engineering services, rather than opening a complaint case immediately, they send them a letter to instructing them to show they have a PE on staff. If so, they pay the \$500 penalty without having an official ‘ding’ on their personal or firm license. The Executive Director notes that it does have a significant impact on the number of complaints they record each year.⁷

Fiscal impact

A Fiscal Note was requested on HB 476, LC 36 4701S. Fiscal notes are requested by the Chair of the Committee to which the bill has been assigned and are written jointly by the Department of Audits and the Office of Planning and Budget. It was estimated that there would be an annual cost of more than \$623,000. The annual costs were mostly for staff and licensing software. It was noted that the bill requires operating expenses to be covered by fee revenues. It was further estimated that the PELS Board could incur start-up costs of more than \$300,000 related. See Table 3, below, for the cost breakdown. A full copy of the Fiscal Note can be found in Appendix C.

Table 3. Estimated Annual Costs for Independent Board

Annual Costs	Amount
Personnel	\$374,000
Licensing Software	\$180,000
Real Estate	\$39,000
Regular Operating Expenses	\$30,000
Contract – Legal Services	Unknown
Total Annual	\$623,000+
One-Time Costs	Amount
Furniture, Fixtures, and Equipment	\$225,000
Licensing Software Migration	\$100,000
Total One-Time	\$325,000

However, the ACEC disagreed with the assumptions made in the Fiscal Note. They created their own proposal, modeled after the North Carolina Board of Examiners for Engineers and Surveyors. The North Carolina Board is comprised of a staff of 15 with an annual budget of \$2.9 million. ACEC chose North Carolina to model their proposal due to the similarities in terms of total population, number of licensees, and overall economic activity.

They propose a smaller staff for an annual estimated budget of \$2.5 million. No further information was provided to Council regarding these estimates. ACES, in the GORRC Applicant survey, did provide the intent to increase the license fee from \$25 to \$125 for the purpose of funding the board’s \$2.5 million operating expenses. The operating expenses are to be funded only by the \$100 increase in fees, while allowing the PLB to ‘retain’ the \$25 fees currently collected⁸. The specific new fee amount is not in the

⁷ Russ Pennington, Personal Communication, 10.8.21

⁸ ACEC GORRC Survey Response 9.17.21

drafted legislation for HB 476, LC 36 4701S. Therefore, the Council looks on the fee increase quoted by ACES of \$125⁹ as an assumption.

However, the appropriations process in the State of Georgia does not allow for agencies to retain fees, all must be remitted to treasury and agencies are given an annual appropriation for their operations. The Constitution of the State of Georgia does not allow any agencies to retain fees collected to fund operations, "... the appropriation for each department, officer, bureau, board, commission, agency, or institution for which appropriation is made **shall be** for a specific sum of money; and **no appropriation shall allocate** to any object the proceeds of any particular tax of fund or a part or percentage thereof¹⁰." Regardless of the language currently drafted in LC 36 4701S, lines 214 -215, the constitution prohibits retaining fees. The Georgia Department of Audits conducted a Performance Audit in 2006¹¹ on user fees that highlights when agencies do not follow the law. Agencies are allowed to retain funds only if they apply to certain criteria¹².

The Council can not assume that the revenue collected by un-specified, proposed fee raise will be the funds to which the PELS Board will run their operations. Were this measure to be adopted, any fees raised would be remitted to the General Fund and they will be subject to the annual appropriation process, the same as all other state entities who do not have an explicit Constitutional exception¹³.

ACEC stated that the SOS office would be able to retain the funds that their license fees were already putting into their budget. Again, as was previously mentioned above, budgeting in the State of Georgia is done on an annual basis with all fees from licensed collected by the PLB going into the General Fund. Agency budgets are established based upon the workload needs of the agency and off the Revenue estimate and budget instructions released by the Office of Planning and Budget at the beginning of the budgeting cycle¹⁴. There is no guarantee that the same level of funding would exist year-over-year as has been proposed by ACEC.

The Council also notes that to the extent that a Board is considering a rule change to create higher fees to receive better services, the proposed rule is subject the Georgia Professional Regulation Reform Act¹⁵. The Georgia Professional Regulation Reform Act allows for individuals the opportunity to comment on a rule change that could limit competition in their profession. Particularly, as it relates to an increase in fees of 400%, as has been proposed by ACEC.

Costs Inefficiencies of Free-standing Boards

By grouping professions together, it allows the occupational licensing boards to benefit from cost-savings through economies of scale. The state saves on contracts to service large quantities of boards. The amount that the PELS Board would spend on a product, licensing software for instance, will be much higher as an independent board than as a part of the PLB. This would have the consequence of increasing the cost to do business Georgia. Particularly, if other professions were to follow the example set by the PELS Board.

⁹ ACEC GORRC Survey Response 9.17.21

¹⁰ Ga. Const. Art. III, § IX, Para. VI (a)

¹¹ Georgia Department of Audits User Fee Audit Report, December 2006

¹² Ga. Op. Att'y Gen. 77-77, U77-10.1, 97-26

¹³ Ga. Const. Art. III, § IX, Para. VI (r)

¹⁴ <https://opb.georgia.gov/budget-information/budget-process>

¹⁵ O.C.G.A. § 43-1C-3

Funding comparisons to the Georgia Real Estate Commission

The Real Estate Commission was established in 1977 after a court ruling and subsequent legislation. According to the Commission, "... base its proposed budget so that the State's appropriation to it equals approximately 85% of its income.¹⁶"

As it was referenced during council meetings and in the ACEC GORRC Survey, Council staff looked at the funding mechanisms of the Georgia Real Estate Commission. Council staff looked at the last three fiscal years, FY 2019, FY 2020, FY 2021. In FY 2019 the budget was 72% of fees, in FY 2020 it was 74% of fees, and in FY 2021 it was 55% of fees. This analysis shows that for the past three fiscal years, the State Funds budget of the agency was much lower than the fees.

Table 4. Fees compared to State Funds Budget¹⁷

Fiscal Year	Fees	Budget	Percentage¹⁸
2019	\$4,335,568	\$3,102,035	72%
2020	\$4,061,461	\$3,016,600	74%
2021	\$4,973,969	\$2,716,748	55%

Licensure Boards not under Secretary of State

There are several other professions that are licensed by the State of Georgia, but not under the purview of the SOS. Those professions are as follows: Lawyers, Accountants, Physicians, Dentists, Insurance Agents, Pesticide Applicators, and Pharmacists.

Some of the previously mentioned have never been a part of SOS. The State Bar of Georgia has always been an independent board. The Georgia Department of Agriculture Environmental Protection Division has administered Pesticide Applicator Licensing since it was created in the Pesticide Act of 1976. The Office of Commissioner of Insurance and Safety Fire has licensed insurance agents, agencies, companies, and other insurance-related professionals since the agency was established. The Georgia Composite Medical Board has licensed Physicians since the Board's establishment in 1981¹⁹.

Four of those professions not under the SOS have previously been a part of SOS. The Real Estate Commission left the SOS because of a 1977 Court decision²⁰. In 2013, the Board of Dentistry²¹ and the State Board of Pharmacy²² moved from SOS to the Department of Community Health. In 2014 the State Board of Accountancy was created as an independent budgetary unit administratively attached to the State Accounting Office²³. Council notes that as there are only four professions that have left the PLB at

¹⁶ Georgia Real Estate Commission Fiscal Year 2020 Annual Report

¹⁷ The fee collection numbers were gathered from the Georgia Revenues and Reserves Report compiled by the State Accounting Office and the budget for FY 2019 and FY2020 was gathered using the Budgetary Compliance Report, also compiled by the State Accounting Office. FY 2021 was gathered using the Appropriations Bill, as the Budgetary Compliance Report was not released at the time of the writing of this report.

¹⁸ Calculated as budget as a percent of fees.

¹⁹ O.C.G.A. § 43-34-1.

²⁰ <https://grec.state.ga.us/about/real-estate-commission/history/>

²¹ O.C.G.A. § 43-34-2.1.

²² O.C.G.A. § 26-4-20.

²³ Public Accountancy Act of 2014

the SOS in the history of the agency, they are outliers. Council also notes that three of those four have moved to different agencies entirely.

It was referenced by ACEC that the language for this bill was taken from the code sections for both of those boards and it is nothing new to be removed from the PLB and be established as an independent budgetary unit²⁴. If approved, the PELS Board would only be the fifth board to do this. With that precedence, this Council notes that it could begin an alarming trend of other professions to seek independent board status, which could prove catastrophic for the PLB.

Findings

Pursuant to O.C.G.A. § 43-1A-6, the Georgia Occupational Regulation Review Council must review bills under their consideration according to the following criteria:

- ❖ Whether the unregulated practice of the occupation may harm or endanger the health, safety, and welfare of citizens of this state and whether the potential for harm is recognizable and not remote;
- ❖ Whether the practice of the occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability;
- ❖ Whether the citizens of this state are or may be effectively protected by other means;
- ❖ Whether the overall cost effectiveness and economic impact would be positive for citizens of this state; and
- ❖ Whether there are means other than state regulation to protect the interests of the state.

Based on this set of criteria, the Council has reviewed HB 476, LC 36 4701S, which would remove the State Board of Registration for Professional Engineers and Land Surveyors from within the Secretary of State's Office to be an independent budgeted unit, administratively attached to the Secretary of State. In doing so, the Council developed the following findings:

- ❖ **The State Board of Registration for Professional Engineers and Land Surveyors, as currently operated within the Office of the Secretary of State, presents a potential for harm.**

There are instances where delays of enforcement for engineering and surveying violations are a threat to public health and safety. Council notes that specifics were not presented.

- ❖ **The State Board of Registration for Professional Engineers and Land Surveyors, as a separate budgetary unit as proposed in HB 476, presents a potential for harm.**

Were the PELS Board to become an independent board, they would still be subject to the same appropriations process and potentially could deal with the same staffing concerns. Also, as mentioned below, the drastic increase in the verbally proposed cost of a license could pose a barrier for entry for some in the profession. Council finds any rule change regarding license fees should be subject to the Georgia Professional Regulation Reform Act.

- ❖ **The practice of professional engineering and land surveying requires specialized training.**

²⁴ ACEC GORRC Survey Response 9.17.21

The PELS Board has been setting the standard for licensure and continuing education for their licensees since 1937, these would continue if the board were to stay located within PLB or be removed to an independent budgetary unit.

- ❖ **The economic impact of removing the State Board of Registration for Professional Engineers and Land Surveyors from within the Secretary of State’s Office to be an independent budgetary unit would increase costs to do business for Georgians.**

The increase in licensing fees would increase the cost for licensees by 400% who could pass on that increase to citizens in the cost of work. Further, due to the loss of economies of scale, the costs for business products would increase when removed from the PLB. A trend, if continued would raise the cost of doing business in the state for many professions.

- ❖ **There are currently means other than regulation under the Professional Licensing Board Division to protect the interests of the state.**

There is precedence for professions to establish independent boards, only administratively attached to the SOS.

Recommendation

Based on these findings, the Council does not recommend HB 476, LC 36 4701S pass as currently written. Rather, the Council strongly recommends an increase in funding for human and fiscal resources to increase responsiveness and action to PELS Members.

The vote was 5-2, with two members absent.

Appendix A: Summary of Proposed Legislation

Summary of HB 476

- This bill would amend Chapter 15 of Title 43 to establish the Georgia Professional Engineers and Land Surveyors Board as an independent state agency attached to the Secretary of State (SOS) for administrative purposes only.
 - 1) The stated purpose of the legislation is to safeguard life, health, and property and to promote the public welfare (lines 16-17).
- Definitions:
 - 1) ‘Board’ is defined as the Georgia Professional Engineers and Land Surveyors Board created in subsection (a) of Code Section 43-15-3.
 - Formerly known as the State Board of Registration for Professional Engineers and Land Surveyors, originally established in 1937.
 - 2) ‘Executive Director’ means the executive director appointed by the Board.
- Composition and terms of the Board remain relatively unchanged. Board members will continue to serve out their respective terms until successors are appointed. New appointees must be confirmed by the state Senate.
 - 1) Board members will be reimbursed the same as other state officers and employees (lines 76-78).
- The Board shall be a separate and distinct budget unit under Part 1 of Article 4 of Chapter 12 of Title 45 of the O.C.G.A. but shall remain an attached agency for administrative purposes only to the SOS as provided in Code Section 50-4-3. The Board is not under the jurisdiction of the SOS nor the director of the professional licensing boards division of the SOS.
- The Board is responsible for enforcing the provisions of this chapter.
- The Board will appoint and compensate the Executive Director, whose duties and powers are provided in Code Section 43-15-5 or as delegated by the Board.
- The venue of any action involving members of the Board shall be the county which holds the Board’s primary office.
- The chairperson of the Board may delegate responsibility of setting meeting details to the executive director. Meetings may be conducted by audio or video conference calls, and participation in the meeting shall constitute attendance.
 - 1) A majority of the appointed Board members shall constitute a quorum. The Executive Director shall not be a voting member.
- The Board may appoint and compensate committees or persons to advise or assist in administration, investigation, and enforcement of this chapter.
- Duties of the Executive Director:
 - 1) Be a full-time employee of the Board and serve at the pleasure of the Board
 - 2) Keep all records related to the Board and its proceedings
 - 3) With the Board’s approval, employ and fix the compensation of personnel as deemed necessary to assist in his or her duties or the duties of the Board

- 4) With the Board's consent, schedule the time and location for all examinations, meetings, and hearings and maintain a schedule of all examinations, meetings, and hearings available for public review
 - 5) With the Board's approval, enter into such contracts, leases, agreements, or other transactions with any person or agency as are deemed necessary to carry out the provisions of this chapter or to provide the services required by the Board
 - 6) Prepare and deliver a written annual report to the Governor and the chairpersons of the House and Senate Appropriations Committees on or before the second Tuesday in January of each year covering the activities of the Board for the previous calendar year ... The report shall include a summary of all actions taken by the Board, a financial report of all income and disbursements, staff personnel, and number of persons licensed by the Board.
 - 7) Prepare and maintain a roster containing the names of all current licensees for each type of license issued by the Board. A copy of this roster shall be available to any person upon request at a fee, with the exception of four (4) confidential types of documentation.
- Investigators hired by the Board through the Executive Director shall be considered to be a peace officer, but only authorized to carry firearms according to their duties with written approval from the Executive Director.
 - Certificates of registration or licenses will be renewable annually.
 - Continuing education requirements are reworded from 30 (biennial) to 15 hours annually for professional engineers and professional structural engineers seeking renewal of a certificate of registration, and from 15 (biennial) to 7.5 hours annually for professional land surveyors seeking license renewal.
 - New Code Section 43-15-6.1 is added to provide for new fees to enforce this chapter. The Board is authorized to charge an examination fee, license fee, license renewal fee, or similar fee. The total amount of fees charged shall approximate the total of the direct and indirect costs for the operation of the Board.
 - Fees collected shall be deposited to the state treasury, which will then pay expenses. All expenditures authorized by the Board shall be paid from the funds received pursuant to this chapter.

Appendix B: Complete Text of House Bill 476

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to
2 professional engineers and land surveyors, so as to provide that the Georgia Professional
3 Engineers and Land Surveyors Board is an independent state agency attached to the
4 Secretary of State for administrative purposes only; to provide a short title; to provide for
5 definitions; to provide for the powers and duties of the board; to authorize the board to
6 employ an executive director; to provide for the powers and duties of the executive director;
7 to revise provisions for purposes of conformity; to provide for related matters; to provide for
8 an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional
12 engineers and land surveyors, is amended by revising Code Section 43-15-1, relating to
13 purpose of chapter, as follows:

14 "43-15-1.

15 This chapter shall be known and may be cited as the 'Professional Engineers and Land
16 Surveyors Act of 2021' and is enacted to safeguard life, health, and property and to promote
17 the public welfare."

18 SECTION 2.

19 Said chapter is further amended in Code Section 43-15-2, relating to definitions, by revising
20 paragraph (1) and adding a new paragraph to read as follows:

21 "(1) 'Board' means the State Board of Registration for Georgia Professional Engineers

22 and Land Surveyors Board created in subsection (a) of Code Section 43-15-3."

23 "(5.1) 'Executive Director' means the executive director appointed by the Georgia

24 Professional Engineers and Land Surveyors Board pursuant to Code Section 43-15-3."

25

SECTION 3.

26 Said chapter is further amended by revising Code Section 43-15-3, relating to creation of

27 board and members, as follows:

28 "43-15-3.

29 (a) A The State Board of Registration for Professional Engineers and Land Surveyors is

30 created whose duty it shall be to administer this chapter existing on June 30, 2021, is

31 continued in existence thereafter as the Georgia Professional Engineers and Land

32 Surveyors Board, and the members serving on the board on June 30, 2021, shall continue

33 to serve out their respective terms of office on the Georgia Professional Engineers and

34 Land Surveyors Board until their respective successors are appointed and qualified.

35 (b) The board shall consist of six professional engineers, two professional land surveyors,

36 and a member appointed from the public at large who has no connection with the

37 professions of engineering and land surveying, all of whom shall be appointed by the

38 Governor and confirmed by the Senate for a term of five years. Of the professional

39 engineers appointed to the board, one shall be a structural engineer, one shall be a

40 mechanical engineer, one shall be an electrical engineer, two shall be civil or sanitary

41 engineers, and one shall be from any discipline of engineering. Each member of the board

42 shall be a citizen of the United States and a resident of this state.

43 (c) Each member shall hold office until his or her successor has been duly appointed and

44 qualified. All successors shall be appointed in the same manner as the original

45 appointment.

46 (d) A vacancy on the membership of the board shall be filled by appointment by the
47 Governor, in the same manner as the original appointment to the position vacated, for the
48 unexpired term.

49 (e) Professional engineers appointed to the board shall have been engaged in the practice
50 of engineering in their respective disciplines for at least 12 years and shall have been in
51 responsible charge of important engineering work in their respective disciplines for at least
52 five years. Professional land surveyors appointed to the board shall have been engaged in
53 the practice of land surveying for at least 12 years and shall have been in responsible
54 charge of important land surveying work for at least five years. Responsible charge of
55 engineering or land surveying teaching may be construed as responsible charge of
56 important engineering or land surveying work, respectively.

57 (f) Each member of the board shall be reimbursed as provided for in subsection (f) of Code
58 Section 43-1-2.

59 (g)(f) The Governor may remove any member of the board for misconduct, incompetency,
60 neglect of duty, or any other sufficient and just cause.

61 (g) On and after July 1, 2021, the board shall be a separate and distinct budget unit as
62 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,
63 however, that the board shall be an attached agency for administrative purposes only to the
64 Secretary of State as provided in Code Section 50-4-3 and shall not be considered a
65 division as that term is defined in Code Section 43-1-1. The board shall neither be under
66 the jurisdiction of the Secretary of State nor be under the direction of the director of the
67 professional licensing boards division of the Secretary of State. The board shall not be
68 subject to the provisions of Chapter 1 of this title.

69 (h) The responsibility for enforcement of the provisions of this chapter shall be vested in

70 the board, and the board shall have all of the duties, powers, and authority granted by or
71 necessary for the administration and enforcement of this chapter.

72 (i) The board shall in its discretion appoint and fix the compensation of an executive
73 director who shall be a full-time employee of the board and shall serve at the pleasure of
74 the board. The executive director shall be charged with such other duties and powers as
75 provided in Code Section 43-15-5 or as delegated by the board.

76 (j) The board members, executive director, and other employees of the board shall be
77 allowed reimbursement for travel and other expenses incurred in the performance of their
78 duties, the same as other state officers and employees.

79 (k) The venue of any action involving members of the board shall be the county in which
80 is found the primary office of the board. Any notice or legal process necessary to be served
81 upon the board may be served upon the executive director, but the executive director shall
82 not be considered a member of the board in determining the venue of any such action, and
83 no court shall have jurisdiction over any such action solely by virtue of the executive
84 director residing or maintaining a residence within its jurisdiction."

85

SECTION 4.

86 Said chapter is further amended by revising Code Section 43-15-4, relating to adoption of
87 rules and regulations, meetings, seal, and division director as secretary of board, as follows:
88 "43-15-4.

89 (a) The board shall adopt all necessary rules, regulations, and bylaws, not inconsistent with
90 this chapter and the Constitution and laws of this state or of the United States, to govern
91 its times and place of meetings for organization and reorganization, for the holding of
92 examinations, for fixing the length of terms of its officers, and for governing all other
93 matters requisite to the exercise of its powers, the performance of its duties, and the

94 transaction of its businesses. The board shall adopt an official seal.

95 (b) The board shall meet at such times as the business of the board shall require, as the
96 board or its chairman chairperson may determine, but shall hold one annual meeting each
97 year at which time the board shall elect a chairman chairperson and a vice chairman
98 chairperson. The chairperson may delegate the responsibility of setting the location, date,
99 and time of board meetings and providing notice of meetings to the executive director.

100 Board meetings may be conducted by audio or video conference calls, and participation in
101 such a conference call shall constitute attendance at the meeting so conducted. Any action
102 that might have been taken at a meeting of the board may be taken by the unanimous
103 written consent of all members of the board.

104 (c) A majority of the appointed members of the board shall constitute a quorum for the
105 transaction of business by the board. The board shall be assigned to the office of the
106 division director for those purposes described in Chapter 1 of this title.

107 (d) The executive director shall serve as the secretary of the board ex officio but shall not
108 be a voting member of the board or member for purposes of constituting a quorum.

109 (e) The board may appoint such committees or persons, who need not be members of the
110 board, to advise or assist it in administration, investigation, and enforcement of the
111 provisions of this chapter, as the board deems necessary, and shall be authorized to
112 compensate any such members of committees or persons who are not members of the board
113 in such amounts as it shall determine to be reasonable."

114

SECTION 5.

115 Said chapter is further amended by revising Code Section 43-15-5, relating to duty of board
116 to maintain records, as follows:

117 "43-15-5.

118 The board shall keep records of its proceedings.

119 The executive director shall:

120 (1) Be a full-time employee of the board and shall serve at the pleasure of the board;

121 (2) Keep all records related to the board and its proceedings;

122 (3) With the approval of the board, employ and fix the compensation of personnel as

123 deemed necessary to assist the executive director in his or her duties or the duties of the

124 board. Persons hired for the purpose of conducting investigations on behalf of the board

125 shall have a level of experience or knowledge of the area of practice needing to be

126 investigated, including, but not limited to, engineering or surveying, that is acceptable to

127 the board;

128 (4) With the consent of the board, schedule the time and location for all examinations,

129 meetings, and hearings and maintain a schedule of all examinations, meetings, and

130 hearings that shall be available for public review;

131 (5) With the approval of the board, enter into such contracts, leases, agreements, or other

132 transactions with any person or agency as are deemed necessary to carry out the

133 provisions of this chapter or to provide the services required by the board;

134 (6) Prepare and deliver a written annual report to the Governor and the chairpersons of

135 the House and Senate Appropriations Committees on or before the second Tuesday in

136 January of each year covering the activities of the board for the previous calendar year,

137 which shall also be made available to any member of the General Assembly upon request.

138 The report shall include a summary of all actions taken by the board, a financial report

139 of all income and disbursements, staff personnel, and number of persons licensed by the

140 board. The Governor may request a preliminary financial report for budgetary purposes

141 prior to such an annual report; and

142 (7) Prepare and maintain a roster containing the names of all current licensees for each
143 type of license issued by the board. A copy of this roster shall be available to any person
144 upon request at a fee prescribed by the executive director sufficient to cover the cost of
145 printing and distribution. The following shall be treated as confidential and need not be
146 disclosed without the approval of the board:

147 (A) Applications and other personal information submitted by applicants, except to the
148 applicant, staff, and the board;

149 (B) Information, favorable or unfavorable, submitted by a reference source concerning
150 an applicant, except to the staff and the board;

151 (C) Examination questions and other examination materials, except to the staff and the
152 board; and

153 (D) The deliberations of the board with respect to an application, an examination, a
154 complaint, an investigation, or a disciplinary proceeding, except as may be contained
155 in official board minutes."

156 SECTION 6.

157 Said chapter is further amended by revising Code Section 43-15-6, relating to general powers
158 of board, injunctions, and continuing education, as follows:

159 "43-15-6.

160 (a) In carrying out this chapter, in addition to other powers conferred upon it under this
161 chapter, the board shall have the power:

162 (1) To adopt and enforce regulations implementing this chapter, including regulations
163 governing the professional conduct of those individuals registered by it;

164 (2) Under the hand of its chairman chairperson or his or her delegate and the seal of the
165 board, to subpoena witnesses and compel their attendance and to require thereby the

166 production of books, papers, documents, and other things relevant to such investigation
167 in order to investigate conduct subject to regulation by the board; the chairman
168 chairperson or the member of the board who is his or her delegate may administer oaths
169 to witnesses appearing before the board; and the board may secure the enforcement of its
170 subpoenas in the manner provided by Chapter 13 of Title 50, the 'Georgia Administrative
171 Procedure Act'; and

172 (3) To maintain in its name an action for injunctive or other appropriate legal or
173 equitable relief to remedy violations of this chapter and, in pursuing equitable remedies,
174 it shall not be necessary that the board allege or prove that it has no adequate remedy at
175 law; and

176 (4) Through the executive director, to hire investigators for the purpose of conducting
177 investigations. Any person so employed shall be considered to be a peace officer and
178 shall have all powers, duties, and status of a peace officer of this state; provided,
179 however, that, notwithstanding Code Sections 16-11-126 and 16-11-129, such
180 investigators shall only be authorized to carry firearms in the performance of their duties
181 upon written approval of the executive director.

182 (b) In addition to other powers conferred upon the board under this chapter, the board shall
183 through rules and regulations require each individual seeking renewal of a certificate of
184 registration as a professional engineer or a professional structural engineer or a license as
185 a professional land surveyor to complete board approved continuing education of not more
186 than 30 15 hours biennially annually for professional engineers and professional structural
187 engineers and not more than 15 7.5 hours biennially annually for professional land
188 surveyors. The board shall be authorized to approve courses offered by institutions of
189 higher learning or offered by other institutions or organizations. The board shall randomly

190 audit some applications for renewal of a certificate of registration or license to enforce
191 compliance with this subsection. The continuing education requirements adopted by the
192 board shall recognize the continuing education requirements imposed by other states to the
193 extent that such continuing education courses meet the requirements imposed by the board.
194 The board shall be authorized to waive the continuing education requirements in cases of
195 hardship, disability, or illness or under such other circumstances as the board deems
196 appropriate. The board shall waive the continuing education requirement for individuals
197 over the age of 65 who have retired from active practice and who apply for an inactive
198 license and for individuals over the age of 65 who are engaged in the active practice of
199 their profession who have had a valid active license for the previous 25 consecutive years.
200 The requirement for continuing education including the exemptions provided for in this
201 subsection shall apply to each licensing renewal cycle which begins after the 1996 renewal
202 cycle."

203 SECTION 7.

204 Said chapter is further amended by adding a new Code section to read as follows:

205 "43-15-6.1.

206 (a) To pay the expenses of the board's office and operations and the enforcement of this
207 chapter, the board by rule or regulation shall be authorized to charge an examination fee,
208 license fee, license renewal fee, or similar fee and may establish the amount of the fee to
209 be charged by rule or regulation. Fees shall be reasonable and shall be determined in such
210 a manner that the total amount of fees charged by the board shall approximate the total of
211 the direct and indirect costs for the operation of the board. Fees may be refunded for good
212 cause, as determined by the executive director.

213 (b) All fees collected pursuant to this chapter shall be deposited by the board into the state

214 treasury. Out of the funds thus arising shall be paid the expenses contemplated in this
215 chapter for the administration and enforcement of this chapter. All expenditures authorized
216 by the board shall be paid from the funds received pursuant to this chapter. The expenses
217 of the board must always be kept within the income collected and deposited in accordance
218 with this chapter, and the expense thereof shall not be supported or paid from any other
219 state fund."

220 SECTION 8.

221 Said chapter is further amended by revising Code Section 43-15-17, relating to issuance,
222 expiration, and renewal of certificates and certificates of registration, as follows:

223 "43-15-17.

224 (a) Certificates, certificates of registration, or licenses shall be issued to applicants who
225 successfully complete the respective requirements therefor upon the payment of fees
226 prescribed by the board.

227 (b) Certificates of registration or licenses shall be renewable biennially annually. Renewal
228 may be effected for the succeeding two years year by the payment of the fee prescribed by
229 the board. Certificates of registration or licenses may be renewed subsequent to their
230 expiration upon the payment of accumulated unpaid fees and of a penalty in an amount to
231 be determined by the board. A certificate of registration or license that has been expired
232 for a period of greater than four years shall be automatically revoked.

233 (c) The division executive director shall give notice by mail to each individual holding a
234 certificate of registration or license under this chapter of the date of the expiration of the
235 certificate of registration or license and the amount of the fee required for renewal, at least
236 one month prior to the expiration date; but the failure to receive such notice shall not avoid
237 the expiration of any certificate of registration or license not renewed in accordance with

238 this Code section."

239

SECTION 9.

240 Said chapter is further amended in Code Section 43-15-18, relating to effect of certificate of
241 registration or license, by revising subsection (a) as follows:

242 "(a) In the case of a professional engineer, the certificate of registration shall authorize the
243 practice of professional engineering. In the case of a professional land surveyor, the
244 license shall authorize the practice of land surveying. In the case of a registered
245 professional structural engineer, the certificate of registration shall authorize the practice
246 of structural engineering. A certificate of registration or license shall show the full name
247 of the registrant or licensee, shall have a serial number, and shall be signed by the
248 chairperson of the board and the division executive director under the seal of the board."

249

SECTION 10.

250 Said chapter is further amended in Code Section 43-15-25, relating to procedure for filing
251 charges against holder of certificate, certificate of registration, or license, by revising
252 subsection (a) as follows:

253 "(a) Any person may prefer refer charges of fraud, deceit, gross negligence, incompetency,
254 or unprofessional conduct against any individual holding a certificate, certificate of
255 registration, or license. Such charges shall be in writing, shall be sworn to by the person
256 making them, and shall be filed with the board."

257

SECTION 11.

258 This Act shall become effective upon its approval by the Governor or upon its becoming law
259 without such approval.

260

SECTION 12.

261 All laws and parts of laws in conflict with this Act are repealed.



DEPARTMENT OF AUDITS AND ACCOUNTS

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Greg S. Griffin
STATE AUDITOR
(404) 656-2174

March 24, 2021

Honorable Alan Powell
Chairman, House Regulated Industries Committee
613-B Coverdell Legislative Office Bldg.
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 476 (LC 36 4701S)

Dear Chairman Powell:

The bill would establish the Georgia Professional Engineers and Land Surveyors Board (PELS) as an independent state agency attached to the Secretary of State for administrative purposes only. Under the bill, the board would consist of nine Governor-appointed members who would hire an executive director to oversee operations. The legislation would take effect upon becoming law.

Independent PELS Board Costs

The independent board has an estimated annual cost of more than \$623,000 (Table 1), which the bill requires to be covered by fee revenue. Annual costs are primarily for staff and licensing software, with lesser costs for real estate and operating expenses. Staff would include a director, two analysts, an investigator, and an administrative assistant. The board will also incur an unknown cost for outsourced legal services.

Table 1. Estimated Annual Costs for Independent Board

Annual Costs	Amount
Personnel	\$374,000
Licensing Software	\$180,000
Real Estate	\$39,000
Regular Operating Expenses	\$30,000
Contract – Legal Services	<u>Unknown</u>
Total Annual	\$623,000+
One-Time Costs	Amount
Furniture, Fixtures, and Equipment	\$225,000
Licensing Software Migration	<u>\$100,000</u>
Total One-Time	\$325,000

Note: Licensing software costs are based on the experience of the Georgia State Board of Accountancy.

In addition to annual costs, the board could incur one-time costs of more than \$300,000 related to setting up a new office (equipment, furniture) and migration of data from the current licensing system.

Secretary of State

With the board becoming an independent agency with its own staff, staffing costs for SOS would decline. Multiple positions support the PELS Board, including an executive director, multiple analysts, and investigators. Only two licensing analysts are devoted entirely to the work of PELS, with other SOS employees supporting multiple licensing boards. The two analysts have a total annual cost of approximately \$96,000. The remaining staff are estimated to allocate approximately \$89,000 of their total cost to PELS.

Sincerely,



Greg S. Griffin
State Auditor



Kelly Farr, Director
Office of Planning and Budget

GSG/KF/cg