

November 17, 2009

The Honorable Theodore R. Kulongoski
Governor, State of Oregon
State Capitol
900 Court Street NE
Salem, OR 97301-4047

Dear Governor Kulongoski:

Your letter on June 8 to the President of the Senate and the Speaker of the House of Representatives and your subsequent Executive Order 09-13 included suggestions for elimination, suspension and consolidation of boards, commissions and agencies for the Legislature's consideration. We are writing to specifically address item 2 under Suggestions for Consolidation: the Oregon State Board of Architect Examiners, the Oregon State Board of Examiners for Engineering and Land Surveying, and the Oregon State Landscape Architect Board into the Building Codes Division (BCD). These boards are critical to the business we do in the State of Oregon.

We do not believe the proposed consolidation will achieve an improvement in critical services for Oregonians and we further believe that it would in fact have a negative result.

- Because of the lack of overlap between the mission of the BCD and the subject Boards, consolidation would not create cost saving opportunities
- Because the professional practices regulated by the subject Boards impact public safety, the regulatory process requires a focused, dedicated staff that is knowledgeable in the statutory requirements for the regulated professions. If consolidation results in staff reduction, that knowledge is lost.
- The Boards will be better able to develop efficiencies as semi-independents.
- The registered architects, engineers, land surveyors and landscape architects provide valuable services to the citizens of Oregon. Consolidation of the subject Boards into the BCD would dilute the focus of the registration, continuing education, and professional development for these professionals and will weaken each Board's ability to stay abreast of the standards of practice for each profession.
- Professional licenses, of the type regulated by the subject Boards, are considered property that is protected by the 14th Amendment against deprivation without due process of law. The professionals regulated by the subject Boards are concerned that consolidation would result in the regulation of their licenses by a state agency that is broadly focused and lacks experience with the regulation of their profession.
- Licensing of architects, landscape architects, engineers and land surveyors was implemented by the Oregon Legislature (as in all other states) to protect the public. We believe that the enforcement of professional licensing statutes by staff untrained in the statutes and practices of the respective professions would reduce the protection of the Citizens of Oregon.
- The subject Boards are semi-independent and are self-supporting. Consolidation under BCD will make their finances general fund driven, and sever the link between the cost of licensing and public safety. As a result, it will either cost the taxpayers to oversee these professions, or the licensees of these professions will be required to pay higher fees.
- The professions regulated by the subject Boards have been granted by the legislature a "practice act" acknowledging that life, safety and welfare aspects of these professions require focused, knowledgeable and dedicated Board members with adequate staff to address the professional concerns and the concerns of the citizens of Oregon.
- Consolidation under BCD will dilute the energy and resources that are strictly focused on each Board's mission. Consolidation under BCD will diminish the participation of public members and hinder the valuable representation of the citizens of Oregon.
- The BCD does not have corresponding functions or similar processes as the three professional boards. BCD's major focus is the administration of and adherence to a *code* that ensures safe

building construction. The subject Boards deal with *professionals* - their education, their conduct, protection of the public from unlicensed or unethical professionals.

- In the past BCD has sponsored legislation supporting the building trades in direct opposition to the statutory obligations of the subject Boards. BCD does not have a reversionary interest in the missions of each professional Board.
- According to the 1997 Management Study on Regulated Professional Occupations prepared by the Department of Administrative Services (DAS), state government has been studying different structures for the regulation of professional occupations for the last 25 years. After years of analysis, the current semi-independent status was implemented for the subject Boards. No new information has become available to suggest that another organizational change would have a positive result.
- Eliminating the semi-independent status of these boards will increase the cost of operating state government. The addition of several budgets will increase operating costs for DAS, Legislative Fiscal and the legislature generally. These added costs will be created by the mechanics of bill passage and for staff to review and comment on the budgets. Needless to say, it will also create added costs for the professionals regulated by the boards as well for the same reasons.

We respectfully request that you remove the consideration of these professional boards from your restructuring plans. Should you want to continue pursuing streamlining possibilities for the three professional boards with which we do business, we would be glad to participate in conversations and offer alternative solutions. If needed we will provide a more detailed position paper to you, the legislative leadership, and your Reset Cabinet and we are prepared to participate in the discussion of maintaining and improving the core functions of the subject Boards without compromising their statutory obligations and their responsibility for public safety.

Thank you for your consideration,

American Council of Engineering Companies of Oregon

American Institute of Architects, AIA Oregon

American Society of Landscape Architects of Oregon

Professional Engineers of Oregon

Professional Land Surveyors of Oregon

Structural Engineers Association of Oregon

CC: Peter Courtney, President of the Senate
Dave Hunt, Speaker of the House of Representatives
Oregon State Board of Architect Examiners
Oregon State Board of Examiners for Engineering and Land Surveying
Oregon State Landscape Architect Board