

Sunset Public Hearing Questions for
Board of Examiners for Architects and Engineers
Created by Section 62-2-201, *Tennessee Code Annotated*
(Sunset Termination June 2020)

Enabling Statute, Purpose, and Rules and Regulations

- 1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.**

The Board of Architectural and Engineering Examiners protects the public health, safety and welfare through regulation of the practice of architecture, engineering, and landscape architecture, and use of the title "registered interior designer," in Tennessee. This mission is accomplished through the adoption of rules, licensing/registration, communication efforts, and enforcement (disciplinary action).

The Board is administratively attached to the Division of Regulatory Boards within the Department of Commerce and Insurance pursuant to T.C.A. § 4-3-1304(a)(5) and currently has a staff of six persons, including an Executive Director.

- 2. Has the board promulgated rules and regulations? If yes, please cite the reference.**

Yes. The Board has promulgated rules which can be found in Tenn. Comp. R. & Regs. Chapters 0120-01 through -06

Board Organization

- 3. Provide a list of current members of the board. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.**

A list of current Board members is attached (Attachment 1). The Board is composed of nine (9) voting members (three (3) architects, three (3) engineers, one (1) landscape architect, one (1) registered interior designer, and one (1) public member) and three (3) non-voting associate engineer members. An architect, engineer, and associate engineer member is appointed from each grand division of the state. All Board members are appointed by the Governor for a four-year term.

Architect, engineer, landscape architect, and registered interior designer members must have at least ten (10) years' experience in the practice of their profession as a registrant, with no record of any formal disciplinary action. Such members shall have been in responsible charge of work for at least five (5) years, and shall have demonstrated an interest in improving the profession by involvement in a statewide association directly related to their profession for at least five (5) years. They must also be a citizen of the United States and shall have been a resident of Tennessee for five (5) years at the time of appointment. The public member cannot be engaged in the practice of architecture, engineering, or landscape architecture and must be a resident of the state. The current membership of the Board complies with these requirements. Also, the Board shall

include, where possible, at least one (1) female and at least one (1) member of a racial minority. At present, two (2) females (Susan Ballard and Kathy Ware) and one (1) member of a racial minority (Brian Tibbs, who is African American) serve on the Board.

4. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

There is currently one (1) vacancy for an associate engineer on the Board. This position has been vacant since 2017. Administration is actively working with the Governor's office to fill all vacancies.

5. How many times did the board meet in Fiscal Years 2018 and 2019? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

The Board generally meets six (6) times a year. They have had quorum for every scheduled meeting.

FY 2018

August 10, 2017	9
October 6, 2017	9
December 7, 2017	11
February 15, 2018	10
April 12, 2018	11
June 14, 2018	11

FY 2019

August 9, 2018	10
October 4, 2018	11
December 6, 2018	10
February 7, 2019	10
April 4, 2019	9
June 27, 2019	11

Financial Information

6. What were the board's revenues and expenditure for Fiscal Years 2018 and 2019? Does the board carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.

For fiscal year 2018, the board's revenues were \$1,394,904 and expenditures were 1,271,650. Its reserve balance at the end of fiscal year 2018 was \$2,081,015. Although we have not received a final closeout report for fiscal year 2019, the estimated revenues through May 2019 are \$1,241,735. The estimates expenses through May 2019 are \$1,235,894. The reserve balance as of June 2019 was \$2,086,857.

7. What per diem or travel reimbursements do board members receive? How much was paid to board members in Fiscal Years 2018 and 2019? –

Board members receive a per diem of \$50 for days when they work four (4) or more hours performing duties relating directly to the Board (such as application or continuing education audit reviews) or for time or days spent attending Board meetings where a quorum is present (T.C.A. § 8-23-205). In addition, they receive travel reimbursement for the carrying out of Board-sanctioned activities pursuant to the state’s comprehensive travel regulations.

	FY 2018	FY 2019	Total
Per Diem	8,400	7,650	16,050
In-State Travel*	18,576	21,340	39,916
Out-of-State Travel**	12,532	4,046	16,578
FY Totals	39,508	33,035	72,544

*In-state travel is primarily associated with Board meetings.

**Out-of-state travel is for attending national regulatory council meetings. The national regulatory councils assist member boards in carrying out their duties by developing uniform national examinations and model laws and rules and facilitating reciprocity, among other responsibilities. For several of these meetings, members are funded by the national organizations.

8. Please provide a list of fees collected and indicate whether these fees were established through rule or through state law.

Through rule as follows: in-state residence Engineer application \$30 with \$140 biennial registration; out-of-state Engineer application \$55 with \$140 biennial registration; in-state residence Architect application \$30 with \$140 biennial registration; out-of-state Architect application \$55 with \$140 biennial registration; in-state residence Landscape Architect application \$30 with \$140 biennial registration; out-of-state Landscape Architect application \$55 with \$140 biennial registration. Duplicate certificates of registration for engineers, architects, and landscape architects is \$25. Duplicate certificates of registration for engineer interns is \$15. There is a \$10 late fee for each month past expiration, not to exceed six (6) months.

Sunshine Law, Public Meetings, and Conflict of Interest Policies

9. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board

have for informing the public of meetings and making minutes available to the public?

Yes. The Board schedules all board meetings for each year and places the schedule on the website no later than one (1) month before the first Board meeting of the year. Meeting agendas are sent to all stakeholders and posted on the Board website at least seven (7) business days before a regularly scheduled meeting. Minutes are recorded for each meeting and are placed on the Board website following approval by the Board; minutes are also available for inspection in the Board office. In addition, recordings of meetings are placed on the Board website.

10. Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?

Yes, public comment is allowed at meetings. Anyone interested in presenting something to the board for review may ask to be placed on the agenda. Otherwise, if someone from the public appears at the meeting, they sign in and the board would allow them an opportunity to ask questions or voice nay concerns.

11. Does the board have policies to address potential conflict of interest by board members, employees, or other state employees who work with the board?

Upon appointment to the Board, each member is required to attend a new member orientation. This orientation is conducted by the Director of Operations, the Executive Director, and the attorney for the Board. During this orientation, Board members are reminded of the conflicts of interest policy. A brief refresher of this policy takes place annually. Furthermore, the Department's Human Resources Division has specific disclosure forms on which each individual member must list any potential conflicts of interest before beginning to serve his or her term.

12. Does the board have a website? If so, please provide the web address. What kind of public information is available on the website?

Yes—<https://www.tn.gov/commerce/regboards/architects-engineers.html>.

The website provides contact information; frequently asked questions; public meeting calendars, agendas, minutes, and recordings of meetings; forms and publications, the Reference Manual for Building Officials and Design Professionals, and the Consumer's Guide to the Design Professions; laws; rules; Board policies; access to the online licensing system and complaint form and list of disciplinary actions; and links to other resources. The Department of Commerce and Insurance also maintains a website at <https://verify.tn.gov/>, which allows for license search and verification for those individuals who are licensed with the Department.

Application and Licensure Process

13. Describe the criteria for issuing a license. How were these criteria determined? How long does the licensing process take? What are the established time goals for obtaining a license? Are those goals being met?

Applicants must meet education, examination and experience requirements. Transcripts are required for education. Proof of passage of examination is required, and detailed experience and references are required to validate the experience requirement. Comity registrants are usually actively registered within four (4) to six (6) weeks from the date the application is received. This is because it takes time for all of their documentation to be received plus time for Board review. Exam applications are open for five (5) years from the date received. They may sit for the exam as many times as needed during this five (5) year time period. Yes, these goals are usually met.

14. How many individuals and/or businesses are currently licensed by the board? Please provide a list by category/type of license.

	Date	In-State	Out-of-State	Total
Architects	6/17/2019	1572	2439	4011
Engineers	6/17/2019	7297	9138	16435
Landscape Architects	6/17/2019	211	205	416
Interior Designers	6/17/2019	342	39	381
Totals (Registrants)	6/17/2019	9422	11821	21243
Architectural Firms	6/17/2019	463	1485	1948
Engineering Firms	6/17/2019	1019	3718	4737
Landscape Arch Firms	6/17/2019	56	129	185
Totals (Firms)	6/17/2019	1538	5332	6870

15. How many applications did the board receive in Fiscal Years 2018 and 2019? By category, how many applications were approved and a license granted? How many applications were rejected? Of those rejected, what was the primary reason for rejection?

FY 2018 (07/01/2017 – 06/30/2018)					
	Architect	Engineer	Landscape Architect	Interior Designer	Totals
Applications Received	331	1107	39	10	1946
Registrations Granted	218	939	31	10	1657
Applications Denied	8	5	0	0	13
Registrations Suspended	0	0	0	0	0
Registrations Revoked	0	1	0	0	1

FY 2019 (07/01/2018 – 06/30/2019)					
	Architect	Engineer	Landscape Architect	Interior Designer	Totals
Applications Received	330	1170	40	14	2010
Registrations Granted	209	766	23	9	1462
Applications Denied	14	6	1	0	21
Registrations Suspended	0	0	0	0	0

Registrations	0	0	0	0	0
Revoked					

The difference in the number of applications received and those granted is either applications that are incomplete, examinations pending or applications that have expired.

16. How many licenses were revoked during the same time period? What were the primary reasons for revocation? Please provide information by type of license. –

One individual was in Fiscal year 2018 but has since obtained a license and is active.

Complaint Handling Process

17. Describe the complaint handling process. Please explain how consumers are made aware of the process for filing a complaint, how complaints are taken and investigated, how complaints are resolved and what actions may be taken as a result.

Once a complaint is received by the Board, it is submitted to the Respondent, otherwise known as the individual or company the complaint was filed against for response. The response from the Respondent is then sent to the Complainant. The Complainant then has the opportunity to respond and include any additional information. The complaint, Respondent’s response, and any additional correspondence are then forwarded to the Board’s legal counsel.

Respondents are given ten days to file their response. The legal counsel then reviews the file and all documentation and creates a summary and recommendation to present before the Board at their regularly scheduled meetings. The legal report is presented anonymously as to not prejudice the Board on reaching a decision. Upon hearing the summary, the Board will vote on whether or not they believe the facts of the matter are grounds for discipline under the Board’s statutory scheme found in Tennessee Code Annotated § 62-2-101 et seq. (“Act”) and the promulgated rules. If the Board determines there has not been a violation under the Act, then the Board will often dismiss the matter. However, if the Board determines that the facts warrant discipline, the Board may authorize a formal hearing but first give an option for the Respondent to settle via a Consent Order. Discipline types include letters of instruction, letters of warning, civil penalties, suspension, and revocation. If the Respondent is sent a Consent Order and decides against settlement, then the matter may be set by legal counsel for a formal hearing between the Department and the Respondent.

All of the information provided to consumers for filing a complaint is found at <https://core.tn.gov/datamart/mainMenu.do;jsessionid=dOZ3PdDAsgzl6Tf6kMdaWIHV.undefin>. If consumers have any additional questions or concerns, they can visit the Board’s website and contact the Board staff via telephone or email. Also, the Department’s Customer Service Center provides assistance to consumers. Once a complaint is received by the Department’s Centralized Complaints Division, the

consumer is provided additional information concerning their complaint that will help aid in the process.

18. What are the time goals for resolving complaints and are those goals being met?

The Board's metric for resolution of complaints is to resolve 90% of all complaints within one hundred eighty (180) days from the date of receipt of any complaint to the date that a settlement offer is presented to the Respondent.

Yes, these goals are being met. The Board is provided a monthly metric report on meeting this goal, the metric for April, May, and June 2019 respectively were are follows: 98.31%, 97.73%, and 100%.

19. How many complaints were received in Fiscal Years 2018 and 2019? What types of complaints were received? What, if any, enforcement actions did the board take as a result of complaints filed?

FY18: ninety-eight (98) complaints and seven (7) Consent Orders;
FY19: one hundred thirty-five (135) complaints and fifteen (15) Consent Orders. (see Disciplinary Action addendum)

Reports, Major Accomplishments, and Proposed Legislative Changes

20. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in Fiscal Years 2018 and 2019.

None.

21. What were the board's major accomplishments during Fiscal Years 2018 and 2019?

Grants to Higher Education. The Board continues to provide grants each year to accredited architectural, engineering, landscape architectural and interior design programs of Tennessee colleges and universities. Grant funds may be used for computers to be utilized by students, laboratory or instructional equipment, library resources, or to pay intern development program fees or examination fees for students. The Board has awarded over \$4.2 million in grant funds since the inception of the program in 2002.

Enforcement of Qualifications-Based Selection for Public Projects. A new rule took effect on March 11, 2013, that prohibits registrants from competitively bidding professional services on public projects in violation of Tenn. Code Ann. § 12-4-107(a), which requires that government agencies select design professionals based upon their competency, qualifications and experience rather than by price. The Board was instrumental in working with procurement officials, government agencies, and other

parties regarding this requirement and after many workgroup sessions a guide was written and made available to all parties as reference to QBS. During Fiscal Year 2018 the board worked to create a guide for all parties to follow as a result of the 2013 rule.

Engineer Interns. New rules took effect on July 20, 2018 to eliminate the fee for registration. The number of registrants has consistently gone up since 2016.

22. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

No legislative changes are needed at this time.

23. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of Tennessee?

Yes. This Board should be continued in order to ensure that only properly qualified individuals engage in the practice of architecture, engineering, and landscape architecture and make use of the title “registered interior designer.” Only registered architects, engineers, and landscape architects may perform design services related to buildings and structures of significant size. Termination of the Board would negatively impact the public health, safety, and welfare, since the public would no longer have the assurance that buildings and structures in Tennessee were designed by qualified individuals. All fifty (50) states have recognized that the regulation of architecture, engineering, and landscape architecture is vital to protect the public’s health, safety, and welfare.

Last Name	First Name	Term Start	Term Expire	Grand Division	Gender	Over 65?	Minority?	Experience Requirement (Lic. Type, Public Member, etc.)
Campbell	Robert	6/22/2010	6/30/2019	East	M	No	No	Engineer
Parker	Blair	7/1/2016	6/30/2020		M	No	No	Landscape Architect
Tibbs	Brian	11/11/2016	6/30/2020	Middle	M	No	Yes	Architect
Ballard	Susan	7/6/2012	6/30/2020		F	No	No	Registered Interior Designer
Bursi	Richard	2/13/2012	6/30/2021	West	M	No	No	Engineer
Minchew	Grant	2/12/2018	6/30/2019		M	No	No	Public Member
Thompson	Richard	3/16/2006	6/30/2021	East	M	Yes	No	Architect
Wagster	Frank	9/18/2012	6/30/2019	West	M	Yes	No	Architect
Ware	Kathryn	7/1/2016	6/30/2020	Middle	F	No	No	Engineer
Hethcoat	Alton	9/25/2017	6/30/2021	Middle	M	No	No	Associate Engineer
King	Stephen	7/1/2016	6/30/2020	East	M	No	No	Associate Engineer
VACANT								Associate Engineer