

# THE STANDARD

OCTOBER 2015

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AUDEMUS JURA NOSTRA DEFENDERE  
ALABAMA STATE HOUSE



## ON THE COVER --

The Alabama State House - Home of the Alabama Legislature.

The 2021 Legislative session ended on May 17, 2021. See inside for a bill that passed regarding liability of professionals that may be of interest to you.

## BOARD INFORMATION

- BELS is comprised of nine members. Five represent the engineering profession, two represent the land surveying profession, and two represent the general public.
- All members are vetted by specific nominating committees. The committees then submit a list of three names to the Governor who makes the appointment.
- Board meetings are held every two months beginning in January and are open to the public.

**facebook**



THE STANDARD is a publication of the Alabama Board of Licensure for Professional Engineers and Land Surveyors. Digital Editions are posted on our website.

*Believe you can  
and you're halfway  
there!*

*Theodore Roosevelt.*



**INSPIRATIONAL WORDS**

# COMMUNITY NEWS

## Introducing Our New Staff Members.

Monica Moore is our new accountant. Monica retired in 2020 after a thirty year career in State Government. Fortunately for us she decided to go back to work and started with the Board in January 2021. She pays the bills, processes deposits and creates the Board's budget.

Pam Faison processes firm Certificate of Authorization applications, and change of addresses. Pam initially retired in November 2020 after a twenty-five year career in State Government. She joined our staff in April 2021.

Bill Hamil is our new Investigator. Bill retired from the City of Montgomery Alabama Police Department and most recently worked for the Alabama Peace Officers Standards and Training Commission.

Staff Contact Information can be found by using the following link:  
<https://bels.alabama.gov/about/staff/>



### Volkert Wins Award

ACEC Alabama selected the I-59/20 Urban Freeway Reconstruction project in Birmingham for the 2021 Grand Award for Engineering Excellence. Volkert provided roadway engineering, bridge design, & CEI services for the ALDOT megaproject.

On May 4th, Bob Herbert, our Chief Special Investigator, had the opportunity to present a 1-hour ethics case study training session for the Huntsville Chapter of ASCE. The training was conducted via Zoom web meeting and investigations concerning ethical conduct of licensees over the past several years were discussed.

On May 12<sup>th</sup> Rick Huett, presented an update of matters that have come before the Board to the Dothan Chapter of ASCE in Dothan. Issues discussed included Roster Designation, Incomplete Licensure Applications, Experience Requirements, and Outreach Activities.

On June 23<sup>rd</sup> Chief Investigator Bob Herbert and Special Investigator Bill Hamil attended the Alabama Association of Emergency Managers Conference in Mobile, and were available to discuss the Board's mission with Emergency Managers throughout the State.



# COMMUNITY NEWS

The Public Board Member Nominating Committee met virtually in June to consider candidates for one of the Public Member positions on the Board. The committee submitted three names to the Governor for her consideration for appointment to the Board.

## NCEES EXAMS

The last paper and pencil civil engineering licensure exams will take place in October 2021. After October, the civil exams will move to the computer based testing (CBT) format. The only paper and pencil exam offered after October 2021 will be the 16 hour structural exam.

The Board is currently working with Heuristics LLC to implement a web based license management system. The system will be in place by the start of the renewal cycle in October, and information regarding the changes you will see when renewing your license will be provided.

Two free on-demand 1 pdh webinars are available on the Board's website. "The Ethical Landscape" and "Law and Code" can be accessed using the following link: <https://bels.alabama.gov/webinars/>

Email [rick.huett@bels.alabama.gov](mailto:rick.huett@bels.alabama.gov) to receive your certificate once you complete the webinar.

## NEED A SPEAKER?

We cover the following topics:

- Enforcement Case Studies
- Ethics
- Law and Rules

If interested please email:  
[rick.huett@bels.alabama.gov](mailto:rick.huett@bels.alabama.gov)



Greg Robinson was appointed to the Board by Governor Kay Ivey on April 23, 2021. He will fill the position previously held by Marc Barter.

Greg has been in the industry over 37 years, serving as a Senior Principal Engineer at LBYD Inc, for 18 years. He has focused on leading the industrial division of LBYD, designing facilities nationwide for clients such as GE, Mercedes, Toyota, Honda, and many others. Greg earned his Bachelor of Science in Civil Engineering from the University of Alabama in 1984 and obtained his Alabama Professional Engineer License in 1992.

He maintains active professional engineering licenses in 25 states nationwide.

# FROM THE ENFORCEMENT DESK

Throughout a normal work week, we receive numerous calls from both licensees and the general public about a variety of issues. Lately the questions have concerned the Qualification Based Selection (QBS) process and if an engineer or land surveyor can submit a cost proposal for a project. We routinely offer the following examples to answer the question, and we'll use the word "individuals" to refer to both individuals and firms in these examples. Remember QBS is always required.

(1) An individual that has performed similar work for a client in the past can be determined to be "pre-qualified" which meets the QBS requirement. The client negotiates with the pre-qualified individual and if an agreement is reached the process is complete.

(2) Individuals submit proposals for the engineering or land surveying work that must include their qualifications to perform the work, and must not include a cost or fee. Once the client determines the individuals are qualified, negotiations can begin with the first individual at which time fees can be discussed. If not selected for the project the individual is **released from negotiations and removed from the process.**

The client then moves to the next individual and the negotiation process begins again. If the second individual is also not selected, then they are also released from negotiations and removed from the process.

The process is complete once an individual is selected. However, if the client goes through the entire process and does not select anyone, then the process is closed and a new selection process must be initiated.

Sections of the Law and Board Rules applicable to QBS:

**Code of Alabama Section 34-11-35.1(d) states:**

- (1) The rules shall prohibit competitive bidding based solely upon price or fee.
- (2) The rules adopted under subdivision (1) shall not apply to a boundary survey on private land where the survey is not intended for use as a basis for engineering design at the time of preparation, unless the survey is prepared in accordance with the standards specified by the American Land Title Association (ALTA) and the National Society of Professional Surveyors (NSPS).

**Administrative Code of the Board 330-X-14-.05 Practice (Canon IV).**

(f) The engineer or land surveyor, shall not participate in or implement procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.

Please contact our office at 334-242-5568 or email [robert.herbert@bels.alabama.gov](mailto:robert.herbert@bels.alabama.gov) if you have questions about QBS, or other areas of the Law or Rules.

# THE RITUAL OF THE CALLING OF AN ENGINEER

This is a replica of The Ritual of The Calling of An Engineer which was shared with the Board by an engineer's grandson, also an engineer himself. His grandfather graduated from the University of Windsor with a BSME in 1944. In the grandson's words - "The (old school) language of the obligation makes it a stirring reminder of our duty as professionals to both peers and to the customers/public."

## THE RITUAL OF THE CALLING OF AN ENGINEER

### Obligation

I, \_\_\_\_\_  
In the presence of these my betters and my equals in my Calling, bind myself upon my Honour and Cold Iron, that, to the best of my knowledge and power, I will not henceforward suffer or pass, or be privy to the passing of Bad Workmanship or Faulty Material in aught that concerns my works before men as an Engineer, or in my dealings with my own Soul before the Maker.

My Time I will not refuse; My Thought I will not grudge; My Care I will not deny towards the honour, use, stability and perfection of any works to which I may be called to set my hand.

My Fair Wages for that work I will openly take. My Reputation in my Calling I will honourably guard; but I will in no way go about to compass or wrest judgment or gratification from any one with whom I may deal. And further, I will early and warily strive my uttermost against professional jealousy or the belittling of my working-brothers, in any field of their labour.

For my assured failures and derelictions, I ask pardon beforehand of my betters and my equals in my Calling here assembled; prying that in the hour of my temptations, weakness and weariness, the memory of this Obligation and the company before whom it was entered into, may return to me to aid, comfort and restrain.

Camp . . . To all these things you have subscribed upon Honour and Cold Iron.

Candidate And upon Honour and Cold Iron, God helping me, by these things I purpose to abide.

Camp No. \_\_\_\_\_

Dated \_\_\_\_\_

Obligated Engineer

Camp Secretary \_\_\_\_\_ No. \_\_\_\_\_



# APPLICATIONS

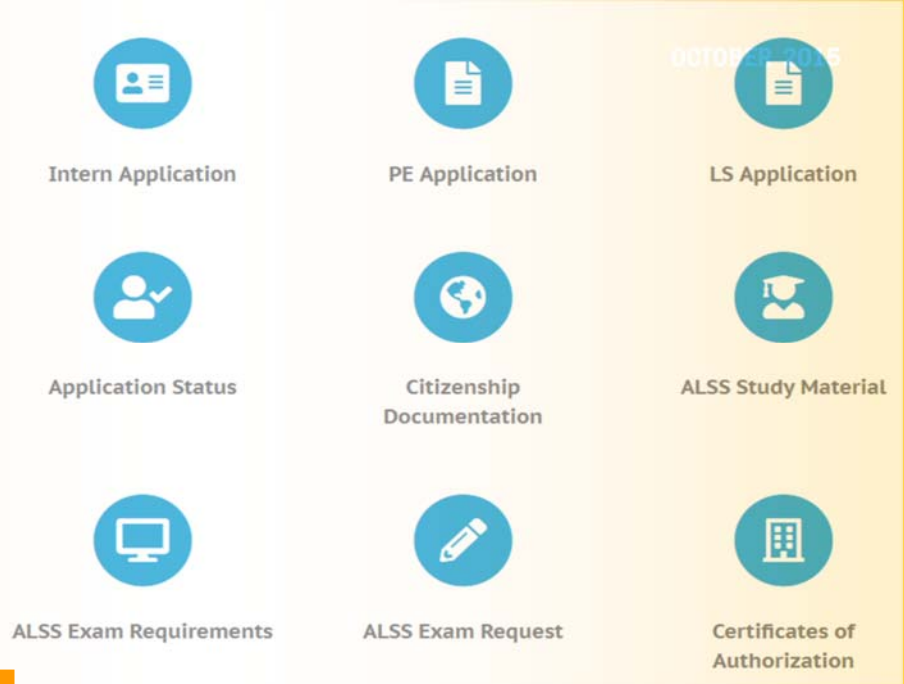
## APPLICATIONS

Background checks are performed as part of the licensure application process. These checks sometimes find that information on the application was not reported accurately.

For example – the application contains the following question. “Have you ever been convicted, plead guilty, placed on probation, had adjudication withheld, accepted pre-trial diversion for a felony or misdemeanor?”

If so, answer yes even if you understood the conviction was expunged or dismissed and would not be reported.

*(Images from Applications Webpage)*



Although the question is clear — applicants frequently answer it incorrectly.

The most common types of “misdemeanor” convictions that applicants fail to report are related to violations the applicant may think were simply a fine they paid.

For example: hunting, fishing, and boating violations are almost always reported in court records as misdemeanors. So by failing to report a (fishing without a license) violation the applicant has most likely responded incorrectly to the question on the application. This can cause a negative impact on the applicant since the Board’s policy is to deny applications for one year that contain inaccurate answers to the questions.

### Affirmative answers to questions 10-15 must be explained under Question 20

- |  |  |
|--|--|
| 10. Has your name changed since birth?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 11. Have you previously filed a PE or PLS application with this Board?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 12. Have you ever been denied licensure in any jurisdiction?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 13. Have you ever been disciplined or do you have any complaints pending against you in any jurisdiction?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 14. Do you currently have criminal charges pending?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 15. Have you ever been convicted, plead guilty, placed on probation, had adjudication withheld, accepted pre-trial diversion for a <b>felony or misdemeanor</b> ? If so, answer yes even if you understood the conviction was expunged or dismissed and would not be reported. <b>Background checks are performed on all applicants.</b> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Master File \_\_\_\_\_

# OUTREACH

Board Staff will be in the Exhibit area of the ASCE, ASPLS and COAA Summer Conferences. Stop By and Say Hello.

Established in 1932 the Alabama Section of the American Society of Civil Engineers (ASCE) is a non-profit professional organization representing over 1,600 Civil Engineers and civil engineering students throughout the great state of Alabama.



The Code Officials Association of Alabama (COAA). COAA was formed in 1968 and was the first charter member of the Southern Building Code Congress International. The purposes for which this corporation was organized are to promote maximum safety for life, health, & property at minimum building cost through education and training of code enforcement officials



## ASPLS Mission Statement:

To promote, improve and encourage the Profession and practice of Land Surveying in the State of Alabama. Recognizing that the true merit of a profession is determined by the value of its services to society, the "Alabama Society of Professional Land Surveyors" does hereby dedicate itself to the promotion and protection of the profession of Land Surveying as a social economic in-



## *our* MISSION

The Alabama Board of Licensure for Professional Engineers and Land Surveyors was established by legislative action in 1935. Its charter is to protect the public by helping to safeguard life, health, and property, and to promote the public welfare by providing for the licensing and regulation of persons in the practices of engineering and land surveying.

This purpose is achieved through the establishment of minimum qualifications for entry into the professions of engineering and land surveying, through the adoption of rules defining and delineating unlawful or unethical conduct, and through discipline for those individuals or entities who violate the applicable laws or rules.



# STRUCTURAL ENGINEER ROSTER DESIGNATION

In January 2021 the Board proposed a rule change to add a “Structural Engineer Roster Designation.”

On March 16, 2021, the Board held a public hearing and ultimately revised the original rule language based on comments it received. The revised rule became effective May 17th, and we are now accepting requests for Structural Engineer Roster Designation.

While Roster Designation is not required to practice engineering in Alabama, professional engineers are required to only practice in the areas in which they are qualified by education and/or experience. The roster is available on our website along with our licensee roster.

Our licensee roster provides limited information regarding individuals and firms licensed or certified in Alabama. In accordance with the Code of Alabama, Section 3-11-37(e) the following Board records and papers are confidential and are not public records: applications, email addresses, home addresses, and pending and closed complaints and investigative files where no formal disciplinary action was taken.

Images from Website

Structural Roster Designation is an optional listing granted to licensees meeting the requirements established by the Board. Omission of a licensee’s name does not affect their ability to practice structural engineering.

Last Name	First Name	Middle	Date Granted
Adams	Richard	R	6/9/2021
Ashley	Glen	Stuart	6/1/2021
Baker	Robert	Allan	6/22/2021
Barrett	Craig	Thomas	5/24/2021
Barter	Marc	S	5/20/2021
Charletta	Daniel	J.	6/22/2021
Cloyd	Jeffrey	Eugene	6/22/2021
Daniels	Joslyn	Blackburn	6/9/2021
Daniels, Jr.	Jack	Washington	6/16/2021
Dickey	Mary	Margaret	5/27/2021
Eilers	Michael	Glenn	5/20/2021
Granata	Salvatore	Ray	5/20/2021
Gwarjanski	David	A	6/1/2021
Hill	Craig	Aaron	6/9/2021
Johnson	James	Ellis	6/21/2021
Johnston	Jason	Cabe	6/9/2021
Jones	Scott	Nathan	6/16/2021
Lac	Truc		5/28/2021
Maas	David		6/9/2021
Miller	Thomas	Earl	5/20/2021
Nejman	Phillip	Justin	5/27/2021
Nevels	John	Robert	5/20/2021
O'Barr	Richard	Mark	6/16/2021
Plasmyer	Jesse	Lee	6/22/2021

## License Search

Search the Alabama Board of Licensure for Professional Engineers & Land Surveyors Database.

Contact the board office if you do not find the information you are searching for.

*Please note: Phone numbers will not be provided on your search.*

## Download:

- [Individual List \(PDF Version / Excel Version\)](#)
- [Company and Related Branch List \(PDF Version\)](#)

*Based on your network speed and connection, download times will vary.*

## Structural Roster Designation

*This is not a separate structural license. It is only a roster designation. A licensee is not required to have this designation to practice.*

- [Structural Roster Designation List](#)



# NEW LICENSEES

## Welcome to Licensure in Alabama!

Congratulations to our new licensees. The list include individuals receiving their first professional engineer or professional land surveyor license and individuals already licensed in other jurisdictions.

### PROFESSIONAL ENGINEERS

HARITH BAHJAT AL-ALOOSI  
BENJAMIN HUNTER ALLEN  
TYLER HAROLD AMEDEE  
JIMMY JAY ANDERSON  
ACHARA JITJAROONGTHAM ARNOLD  
VASILIOS G. ARTEMIOU  
BRADFORD ALAN AYCOCK  
CHASE ANTHONY BAILEY  
TAYLOR RAY BAKER  
IAN DEON BEASON  
JASON RYAN BLANKENSHIP  
DAVID GORDON BLANKFARD  
LANDON WADE BOGGS  
ROBERT JOHN BOHNAK  
JAMES TAYLOR BONE  
JUAN CAMILO BOTERO HIDALGO  
RICHARD LEE BOWEN  
ANDREW JAMES BRASHER  
JOHN CLAY BUMGARDNER  
STEVEN CARL BUNKER  
JUSTINEUGENE BURGOON  
DUSTIN JOE BURTON  
AARON SHAWN BUTCHER  
KEVIN RUSSELL BYERS  
EARL DAVID CALDER  
TIMOTHY DANIEL CALHOUN  
DANIEL M. CAPLICE  
JOSEPH WESLEY CAPUTO  
JOSHUA HOLT CARDEN  
MICHAEL WILLIAM CARR  
PRIYA CHHIBA  
BENJAMIN JOSEPH CHIASSON  
MARK ANDREW CHURPEK  
ROBERT LEE CLEMSON  
SHAWN DOUGLAS COCHRAN  
STEVEN DOUGLAS COLLINS  
MATTHEW L. CONLEY  
JAMES WINDHAM CONNELL  
JONATHAN CRAIG COWLES  
PAUL LESLIE CRABTREE

LIONEL CRUZ LOPEZ  
CHARLES MICHAEL CULBERTSON  
HAROLD EDWARD DAMRON  
KENNETH MICHAEL DANE  
PETER KANE DANIELS  
DONNIE JASON DANIELS  
DAVID JAMES DEDEN  
THOMAS JAMES DEHNKE  
JAMES DEKLE DELOACH  
KEVIN CHRISTIAN DIAZ  
ROSS KENNETH DIEDERICH  
JOSHUA CHARLES DILLIER  
KEVIN LANE DODD  
JOSHUA BLAND DONNELL  
JENNIFER ANN DRESSLER  
JOSHUA OLIVER DUNN  
KENT BRIAN DUSSOM  
WILLIAM MERRITT DUVAL  
JOEL LESLIE EIDSON  
AYMANIBRAHIM EL-BARASI  
ATTRICE DAVON ELDER  
LEE THOMAS ELDRIDGE  
ZACHARY JOSEPH FALLERT  
JOHN ANDREW FARNER  
RICKY DONALD FAUTEUX  
JOSE D FERRUFINO VILLARRUEL  
BRANDON P. FEUCHT  
CODY WAYNE FIKE  
KATELYN HALL FINNORN  
BRENT PHILLIP FLETCHER  
MATTHEW VINCENT FLYNN  
DEAN SCOTT FORD  
JOSEPH THOMAS FOSTER  
ORIN HAROLD GALLOWAY  
EVAN MICHAEL GEERTS  
ROBERT EDWARD GELHARDT  
JOHN DAVID GERDES  
WILLIAM SCOTT GODFREY  
DANIEL PATRICK GRAY  
MICHAEL PAUL GRONSETH  
KYLE DAVID GRUPENHOF  
ROBERT MICHAEL GRZYBOWSKI

DANIEL CLARK GUNTER  
MANOUCHEHR HAKHAMANESHI  
JOHN ALLEN HALEY  
KEVIN SCOTT HARBIN  
RYAN PATRICK HARDIE  
CHARLES ANTHONY HAYS  
TERRY JAMES HERRMANN  
FRANK CARLE HICKSON  
DENNIS JOSEPH HOGAN  
DIOMEDE F. HOLLINGSWORTH  
TOORAJ HOMAYOONI  
THOMAS MCCOY HOOD  
CHRISTINE MARY HOOT  
THOMAS RICHARD HORAK  
KYLE THOMAS HOWARD  
ANDREW ELLIAS HUDDLESTON  
BENEDICT CHIDI INYAMA  
JOSEPH MICHAEL IOVINELLI  
CHADWICK ALLEN JACKSON  
ROBERT PRESTON JACQUETTE  
RICHARD BENJAMIN JANNETT  
CHRISTIAN PAUL JOHNSON  
LEIGH WEAVER JOHNSTON  
MANOJ KANDEL  
WILLIAM SAYRE KEARLEY  
TRAVIS JOEL KEENER  
NATHAN BRENT KICHLER  
AMANDA MARIE KIEFFER  
WILLIAM WORTH KING  
MATTHEW SANFORD KING  
BART EDWARD KIRSENLOHR  
MATTHEW DANIEL KNOTTS  
KURT KENNETH KONKOL  
PHILLIP WILLIAM KORPI  
CHRISTOPHER PAUL LANKA  
TERENCE RICHARD LARSON  
DOUGLAS EDWARD LAW  
KEVIN PAUL LAYMAN  
JOSEPH MICHAEL LEFANTE  
JULIAN J. BENEDICT LINEHAM  
RYAN SCOTT MAHAR  
TITO RODGER MARZOTTO



# NEW LICENSEES

JORDAN PATRICK MATTHEWS  
RAECHELLE VICTORIA MAY  
JUSTIN FRANCIS MAZUR  
KELLEN MICHAEL MCCOSHEN  
KATHRYN MARY FRANCES MCCOY  
MICHAEL WAYNE MCKENZIE  
RYAN KEITH MCKIBBON  
JASON MICHAEL MCLAUGHLIN  
ALLEN JAMES MCNUTT  
MASON DANIEL MCPIKE  
DOUGLAS EMERSON MEEK  
DIMITRIOS MELANDINOS  
ANDREW WILLIAM MERRITT  
JUSTIN HENRY MILLS  
EVAN TYLER MITCHELL  
CHAD STEVEN MITCHELL  
JAMES LEE MOCK  
ANDREW WILLIAM MOCK  
ALEX IVAN MORA  
KRISHNA MIKEL MORRISSETTE  
CHRISTOPHER RYAN MOSELEY  
TODD ALLEN MOSS  
DREW ROBERT MUNDT  
ANDREW THOMAS NEILL  
SCOTT DAVID NELSON  
JOSHUA BRADY NEWMAN  
MATTHEW JARON NICHOLS  
BRIAN KEITH NORTH  
MICHAEL DAVID OBERMARK  
SAMUEL TRAVIS OLIVER  
CARLOS ENRIQUE ORTEGA  
ROBERT NORMAN OWENS  
KIBUM PARK  
ALISON MARIE PARKER  
ALEXANDER MURRAY PARLIAMENT  
POORVI AJAY PATEL  
BRUCE VAN SWEARINGEN PEABODY  
SAMUEL EDWIN PEARCE  
BRADLEY WILLIAM PENAR  
CARON ELISE PERRY  
RUSSELL JAMES PHILLIPS  
MAURICIO RICARDO PINTO  
JORDAN LEE PIXLEY  
KEVIN PARDEE PLACE  
SOTIEL SAM POLENA

CANDIS GRACE POLITE  
ANDREW WILLIAM POOLE  
JOHN TINNEY POPE  
DAVID VINCENT QUIRK  
TEVYE F. RAMAZZINI MAZARIEGOS  
JOEL ROGER RAMSEY  
DONALD LESLIE READ  
LAWRENCE GEORGE REISINGER  
KYLE RICHARD RENEVIER  
JOHN DAVID RICHARDS  
JUSTIN BARRETT RIGDON  
ALEJANDRO LUIS RIVAS PRIETO  
BRIAN CRAIG ROBERSON  
KURT J. ROTERING  
ROBB JAMES ROY  
ADAM KYLE RUSSELL  
WESLEY THOMAS SANDERS  
DENNIS JOHN SCARDINO  
ERICK HANS SCHLENDER  
NICHOLAS CECIL SEAMON  
THOMAS BRADLEY SHAKESPEARE  
ADNAN KHALIL SHAMASNA  
TIMOTHY RYAN SHAW  
THURSTEN DAHL SIMONSEN  
JOSE CARLOS SIMOSA  
DAVID E. SITTERUD  
JAMES DANIEL SLAY  
CASEY JAY SMITH  
JOHN MATTHEW SMITHMAN  
JUSTIN R. SMOTHERS  
ALPDENIZ FERHAT SOYSAL  
DONALD JOLEE SPRADLING  
JACOB FRANK STEPHENS  
WADE RAY STICHT  
CRAIG WERNER STORCH  
BRYAN PATRICK STROHMAN  
JACOB ENOCH SUMRALL  
CHRISTOPHER JAMES SUTTON  
JAMES CLAYTON SWANSON  
ROHAN HUGH SYBRON  
DAVID MICHAEL TARTAGLINO  
BRADLEY LEN TATE  
BRANDON MATTHEW TAYLOR  
CHARLES EUGENE TEAL  
JAY THAKKAR

DOUGLAS PAUL THEALL  
DAVID ANTHONY TRETTER  
EVAN MEREDITH TROMBLE  
RUSSELL FREDERICK TYREE  
ROBERT CARLOS VALDES  
JILL BADGETT VAN TASSEL  
STEVEN MICHAEL VEIL  
KEVIN ANTHONY VELLO  
CURTISGLENN VERNOR  
JOSEPH MARTIN VEROSTKO  
ROBBY LEE VOGEL  
VERNON J. WADE  
ETHAN KARL WAGES  
NEIL DON WAGGONER  
DECLAN GERARD WALSH  
SHAUNA ELIZABETH WALTERS  
RYAN THOMAS WARING  
WALTER ALAN WARREN  
PETER DANFORTH WELLS  
LOYALL AINSLEY WHARTON  
KATHERINE JANE WILCZEK  
EDWARD DWIGHT TREY WILLIAMS  
ELIZABETH ANNE WILLMOT  
SAMUEL SIU-MING WOO  
BRIAN JOHN WOZNAK  
COURTNEY LYLE WUISTER  
FREDERIC TOWNSEND YOOS  
AUSTIN STEVE YORK  
JEFFREY DAVID YOUNG  
SALAH AL DEEN YOUSEF  
STEVEN DANIEL ZIMNY

## PROFESSIONAL LAND SURVEYORS

BENJAMIN JOSHUA BLIXT  
BRENT EDWARD CHRISTENSEN  
JAMES REESE HARPEL  
THOMAS LEE HOWELL  
ANDREW DUDLEY LONG  
JAMES JETTER PITTMAN  
WILLIAM DANIEL STRICKLAND  
ANDREW SHAWN YUHAS



# LEGISLATIVE NEWS

The Alabama Legislature holds a regular session annually that is limited to 30 meeting days within a period of 105 calendar days. There are usually two meeting or "legislative" days per week, with other days devoted to committee meetings. Special sessions of the Legislature may be called by the Governor, with the Proclamation listing the subjects which the Governor wishes considered. These sessions are limited to 12 legislative days within a 30 calendar day span. In a regular session, bills may be enacted on any subject. In a special session, legislation must be enacted only on those subjects which the Governor announces in his proclamation or "call." Anything not in the "call" requires a two-thirds vote of each house to be enacted.

From website: <http://alisondb.legislature.state.al.us/alison/default.aspx>

The 2021 Legislative Regular Session ended May 17, 2021. The legislature passed numerous bills and SB261 is possibly of great interest to you. It was assigned Act No. 2021-318 and will become effective on the first day of the third month following its passage and approval by the Governor. It was signed by Governor Ivey on April 29, 2021.

## BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

### Section 1.

(a) As used in this section, the term "design professional" means a person or entity who is licensed or authorized in this state to practice architecture, landscape architecture, **surveying, engineering**, interior design, or geology.

(b) A provision of a contract for the professional services of a design professional entered into after the effective date of this act is void and unenforceable if it does any of the following:

(1) Requires the design professional to indemnify or hold harmless a contracting party, an indemnitee, or a third party against liability for damage other than liability for damage to the extent caused by, or in proportion to the extent the design professional participates in resolution of a claim based on, an act of negligence, recklessness, intentional tort, intellectual property infringement, or failure to pay a subcontractant or supplier that is committed by the design professional or the design professional's agent, consultant under contract, or other entity for which the design professional is legally liable.

(2) Requires the design professional to defend a contracting party, an indemnitee, or a third party against a claim arising out of the rendering of or failure to render professional services by the design professional or its agents that is not otherwise covered by the design professional's policy of professional liability insurance.

(3) Requires the design professional to list a party or any other person or entity as an additional insured on the design professional's policy of professional liability insurance. *(Image from Legislature Website)*



# LEGISLATIVE NEWS

(4) Subjects the design professional to a standard of care different than that provided under subsection (d).

(c) Nothing in this act voids a provision of a contract for the professional services of a design professional to the extent that it includes any or all of the following:

(1) A requirement that the design professional lists an additional insured on the design professional's general liability insurance policy, automobile liability insurance policy, or both, and provide coverage and any defense provided by those policies.

(2) A provision for the reimbursement of a contracting party's or an indemnitee's reasonable attorney fees, damages, losses, injuries, or other litigation costs in proportion to the design professional's liability, or in proportion to the extent the design professional participates in resolution of a claim also made against the contracting party or indemnitee.

(3) A provision or requirement not otherwise in conflict with subsection (b).

(d)(1) A contract for the professional services of a design professional shall require the design professional to perform the services with the professional skill and care ordinarily provided by a competent design professional practicing under the same or similar circumstances and professional licenses as expeditiously as is prudent considering the ordinary professional skill and care of a competent design professional.

(2) If a standard of care provision in a contract differs from the skill and care required under subdivision (1), the standard of care provided in subdivision (1) shall apply.

(e)(1) Nothing in this section prohibits parties to a contract for professional services of a design professional from including and enforcing conditions that relate to the scope, fees, and schedule of a project that is subject to the contract, so long as the conditions are subject to the requirements of subsection (d).

(2) To the extent not otherwise prohibited by law, nothing in this act shall be interpreted to make a public awarding authority responsible for, or to authorize a design professional to include in a contract any provision making the public awarding authority responsible for, the design professional's proportionate liability for negligence in rendering professional services or liability arising out of the design professional's non-professional actions in connection with its performance for or on behalf of the public awarding authority.

(f) This section does not affect the validity of any existing insurance contract, workers' compensation, or any agreement or coverage document issued by an insurer.

(g) Any provision of law to the contrary notwithstanding, this section may not be interpreted to alter or affect state joint and several liability law or workers' compensation law.





“There are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle.” — Albert Einstein

**ONE LAST THOUGHT**