

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Wednesday, August 15, 2018 3:21:34 PM

-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Wednesday, August 15, 2018 2:32 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS BOARD PROFESSIONAL GEOSCIENTISTS TBPG

First Name: Steven

Last Name: Belaire

Title: Vice President, PG

Organization you are affiliated with: Halff Associates, Inc.

Email:

City: Richardson

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

I oppose the recommendation of the Texas Sunset Advisory Commission (Sunset Commission) staff for abolishing the Texas Board of Professional Geoscientists (Board). The Sunset Commission's recommendation to abolish the Board is based on an incomplete review and analysis of the geoscience profession and does not accurately assess the need for regulation of PGs in Texas by the Board. Included below are my comments concerning several key deficiencies identified in the Sunset Commission report:

Need for Public Protection:

A significant portion of Texas licensed PGs provide environmental consulting services. The professional geoscientists licensure requirements established by the Board are critical to ensure that qualified professionals are authorized to provide these services. The tasks performed by this group includes a much broader service line than "conducting environmental site assessments" as identified by the Sunset Commission staff. The services provided by PGs involve the investigation, evaluation, and implementation of remedial actions at sites with contaminated soil and groundwater to make sure that these sites do not pose an unacceptable risk to human health and the environment. Given the objectives of the services provided by PGs in this service area and the successful implementation of remedial strategies to address existing contamination, measurable impact on public protection is not an appropriate metric to assess the need of the regulation of geoscience.

Remedial actions are implemented at contaminated sites to address potential acute and long-term exposure to contaminants (i.e., potential ingestion of contaminated groundwater, inhalation of contaminants in ambient air and indoor air, incidental ingestion of contaminated particulates, etc.).

Successful implementation of remedial actions and attainment of response action objectives are documented through site specific analytical testing of environmental media to demonstrate that there is no measurable impact on public protection. The Sunset Commission staff concluded that documented catastrophic events or public harm are required as the impetus for creating the regulation and the Texas Board of Professional Geoscientists. This is not an

appropriate criteria to establish necessity. The Sunset Commission staff's conclusions should be based on a detailed analysis of the threat of exposure to contaminants which could result in death, injury, or illness to the public rather than the absence of observed catastrophic events such as a bridge or building collapse. The Sunset staff failed to conduct a detailed analysis of potential harm to the public that the geoscience licensing serves to prevent in the environmental consulting sector.

Sunset Review Staff Background:

Sunset Commission staff who conducted the review of the Texas Board of Professional Geoscientist do not have the educational background or professional experience to clearly understand the services provided by PGs in the environmental consulting sector or whether the existing regulation is effective in preventing a clear threat to health, safety, and welfare of the public. Sunset staff who completed the evaluation and compiled the report consist of individuals with degrees in archaeology, law, political science, public affairs, public administration, and history and dance. Based upon available information, it does not appear that any of the review staff have worked in a technical field. It is not reasonable to expect individuals with this educational background to understand the complexities of risk based corrective actions or the current regulatory framework that is required to make an accurate assessment of the relationship of work in the environmental field to threats to health, safety, and the welfare of the public. As noted previously, potential exposure to contaminants in the environment can be either acute or chronic and does not occur as a catastrophic event that is readily documented, easily observed, available to the public, or easily measured. In order to adequately evaluate this criteria, the Sunset review staff must include individuals with adequate and appropriate technical training and experience to determine if the state regulation and the Texas Board of Professional Geoscientist are in fact needed to license geoscientists.

Failure to Complete Key Review Task Activities:

Sunset Commission staff review activities excluded key items required to provide information needed to understand the nature and purpose of critical services provided by licensed PGs. Review of the report indicates that little consideration was given environmental consulting services provided by PGs. Information provided in the report indicates that the staff did not survey and interview regulated geoscientists and the staff did not meet with geoscientists in the field as part of their review. Instead, Sunset staff attempted to develop their understanding of the services provided by PGs through research of case law and legislative origin of the board and evaluation of municipal code to understand geoscience work at a local level.

Sunset Commission staff failed to undertake the activities required to clearly understand and effectively evaluate the importance of PG certification in Texas.

Significance of Professional Registration Exemptions:

The Sunset Commission report acknowledged that almost half (48%) of the practicing geoscientists in Texas are unregulated by the Board. Geoscience work conducted exclusively for oil and gas exploration and development, energy resources, metals, and mineral resources if done for private industry, teaching, and government research, are exempt from licensing. Most geologists practicing in Texas are employed in the oil and gas exploration and development industry and are not subject to licensing. Work typically performed by geologist involved in oil and gas exploration and development involves subsurface interpretation of geological data to identify prospective areas, detailed analyses of subsurface and production data for resource development, and mud/well logging services. These professional services do not pose a threat of potential harm to the public and do not warrant regulation by the Board. According to US News, currently 80% of engineers working in the United States are not licensed PEs and are not regulated by the Board of Professional Engineers. The number of unregulated PEs is due to the fact that most engineers work in an industry that does not require a professional registration. The Sunset Commission staff has NOT concluded in previous reviews of the PE Board that allowing such a large portion of PEs to avoid oversight as being indicative of little need or demand for regulation of PEs to protect the public. The Sunset Commission erred in concluding that the number of PGs exempt from professional registration indicates a lack of need or demand for licensure of PGs. The Sunset Commission should make sure that they employ consistency in future reviews of occupational licensing agencies. Similar circumstances exist for PEs and PGs. The high percentage of unregulated professionals does not indicate that there is little need or demand to protect the public as concluded by the Sunset Commission staff, but actually reflects the number of professionals in selected service areas and industry requirements. PG certification is currently required in 29 states and includes the states (including Texas) which have the most comprehensive and robust environmental regulations in the United States. Reports that include

geoscience work submitted to the Texas Commission on Environmental Quality (TCEQ) and Texas Rail Road Commission (RRC) remediation sections require a Professional Geoscientist's seal. The PG licensing process administered by the Board ensures that individuals with appropriate education, background, and experience oversee the preparation of these critical documents.

Funding:

According to the Sunset report, the Texas Board of Professional Geoscientists historically generates revenue through licensing fees in excess of what is necessary to cover appropriations. The Board deposits all revenue into the General Revenue Fund. In 2017 the Board deposited in excess revenue of \$234,381 in the General Revenue Fund. The Sunset staff's recommendation to abolish the Board would result in a loss of funds to the General Revenue Fund.

Any Alternative or New Recommendations on This Agency:

The following is recommended for the Texas Board of Professional Geoscientists:

- Continue the Board of Professional Geoscientists.

The following is recommended for the Texas Sunset Advisory Commission:

- Establish procedures to ensure consistency in future Sunset Commission reviews of occupation licensing agencies.

My Comment Will Be Made Public: I agree