

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Thursday, August 16, 2018 12:36 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

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

I strongly OPPOSE the Texas Sunset Advisor Commission staff recommendation to abolish the Texas Board of Professional geoscientists and repeal the Texas Geoscience Practice Act. I have reviewed the Sunset Staff Report and have the following comments, organized by report section and/or subsection, followed by personal comments on the matter.

Fiscal Implications

The summary section states that that the Sunset staff have a duty to report findings to its Commission and Legislature in an effort to focus state resources where public protection is paramount. Later in the report, Sunset staff show that the TBPG is a fully self-sustaining organization, with 100% of annual operating budgets coming from licensed PGs annual dues. Further, Sunset staff go further to explain that abolishing the Board would in fact result in a loss of revenue to the state, resulting in a loss of state resources that could be focused on public protection.

Public Protection Not the Primary Reason to Initiate Regulation While making arguments, the Sunset staff report quotes a 1993 report from the Houston Geological Society that argued that legitimizing the geoscience profession drove the creation of the Board. Additionally, the Sunset staff report contains quotes pulled from the Texas Association of Professional Geoscientists that puts more focus on wages and employment opportunities than on protection of the public. (note: I am not affiliated with either of these organizations). While these organizations certainly represent at least a few of the stakeholders that would be affected by the Commission's decision, they have failed to recognize, and report, on the views of other stakeholders. The Association of Environmental and Engineering Geologists (AEG), a national geological organization with over 150 members in Texas in which I have been affiliated, maintains the following mission: "The Association of Environmental and Engineering Geologists contributes to its members' professional success and the PUBLIC WELFARE by providing leadership, advocacy, and applied research in environmental and engineering geology". Along similar lines, the American Society of Civil

Engineers (ASCE), a national stakeholder group composed primarily of Professional Engineers, maintains this mission: "Deliver value to our Members, advance civil engineer, and PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE". If the Sunset staff wishes to make arguments against regulation of the geosciences based on statements on stakeholders' websites, I would urge them to review the websites of similar stakeholder organizations that represent other professionals governed by state regulatory boards to see how those stakeholder groups represent themselves to their members.

The Public is not the Primary Consumer of Most Direct Geoscience Services The Sunset staff reports that private companies and governmental agencies are the primary consumers of geoscientific services. As a practicing geoscience professional, 90-95 percent of my clients are public entities that are also working in the best interest of the public constituents and communities they govern. They accept only quality work from qualified individuals, many times requiring a licensed professional to perform certain services. Further, there are no statistics of reference cited in this subsection, so I do not believe it should be considered a valid argument. As written, it is simply conjecture.

The Board Takes no Significant Enforcement Action Is a lack of enforcement action, or even official complaints, really an adequate measure of the need for a particular regulation or branch of government? One might argue that a lack of complaints is the hallmark of a highly professional and competent group of licensed professionals. We take our jobs, and liability that comes with it, very seriously. In many cases, a lack of regulation leads to a lack of accountability, and a lack of accountability leads to poor quality work. Consider the Sunset Commission; the Commission as established to hold state agencies accountable for their actions, due to a fear that a lack of oversight would result in government waste. The TBPG was created to hold geoscientists accountable for our actions and makes sure we continue to work in the best interest of the public and the environment.

Other State Agencies Provide More Direct and Robust Evaluation of Geoscience Work than the Board The Sunset staff report highlights that two state agencies (Texas Railroad Commission and Texas Commission on Environmental Quality) provide regular and direct oversight of geoscience work. That is true. It is also true that those two state agencies depend on knowing that if they receive permit applications, monitoring reports, or remediation evaluations from TX licensed Professional Geoscientists, they can expect to be reviewing quality work from a qualified professional. Has Sunset given any thought to the undue burden that would be placed on these two state agencies if a decision was made to abolish the TBPG? Without the level of checks and balances provided by the Texas Geoscience Practice Act (ensuring that only licensed, qualified geoscientific professionals are performing geoscience work in the State of Texas) the agencies would now have to further scrutinize the information they receive due to a lack of accountability on the side of the person submitting the information to the agency. Further, those two agencies would be taking on the liability of the information contained within those documents, liability that is now carried by the PG that seals the reports. Is that something these two state agencies are willing to do? Back to my previous point about the fiscal implications of abolishing the Board, these two state agencies would likely be required to hire more staff to provide the more detailed deliverable reviews that would be required for documents submitted by potentially un-qualified professionals. Additional staff, and additional review time, means more money, which means an even lesser level of resources available for focusing on public protection. Further, these two state agencies are not the only two entities in the state that use or review geoscience work. If not for licensure, the hundreds, if not thousands, of other public and private entities that use geoscience services would need to begin to further scrutinize geoscience activities on their own, something they rarely have the qualified staff to do. Are they to rely on the RRC and TCEQ to provide the necessary technical reviews? These entities call on us, licensed geoscience professionals, to provide a level of quality and service that typically only comes with licensure and its associated accountability and liability.

Personal, and Closing Thoughts

As a practicing Professional Geologists, my primary objective is to use my knowledge and skills to protect the public and the environment in the best, most efficient and effective ways possible. Licensure is necessary to ensure that only qualified geoscience professionals continue to practice the geosciences, to make sure natural systems and their impacts on the man-made infrastructure that makes every-day life possible continue to be adequately understood and accounted for in engineering designs, and to ensure an adequate level of personal and professional liability is placed on practitioners. Unqualified practitioners could be responsible for a least a waste of public funds, and at worst damage to life and/or property. Without the liability that comes along with a PG license, the practitioner would simply receive a slap on the wrist and be free to continue offering the same services they are not

qualified to perform, without any fear of repercussion.

Some might argue that other technical professionals already regulated by the state (engineers and architects) could perform the services currently provided by PGs. PEs, specifically, are held to a set of established ethical standards that does not allow them to perform services that they are not qualified to perform. That is why the majority of my clients are engineers.

They recognize that the geoscientific services I provide are critical to their work, but that they are not qualified to perform the services themselves. I urge you to reconsider your recommendation to abolish the TBPG and Texas Geoscience Practice Act. I believe it is an extremely short-sighted recommendation, and that the report on which it is based has not fully recognized or addressed the far-reaching consequences of abolishing the state-regulated licensure of geoscience practitioners.

Regards,
David Coffman, PG, CFM
Fort Worth, TX

Any Alternative or New Recommendations on This Agency:

- 1.) Remove exemptions for currently unregulated geoscience practice areas. Many of these exemptions were put in place not because those practitioners believed that geologists would not be acting in the best interest of the public welfare, but instead out of job security concerns.
- 2.) Require practice exams for all licensed professionals. Currently grandfathered practitioners should be required to pass the same exams required of new practitioners to continue practicing.

My Comment Will Be Made Public: I agree