

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Thursday, August 16, 2018 11:21:59 AM

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From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Thursday, August 16, 2018 11:13 AM
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: Aaron

Last Name: Evans

Title:

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

I strongly disagree with Sunset's pending recommendation to abolish professional geologist licensing requirements in Texas. I am a hydrogeologist who routinely monitors groundwater for potential releases from landfills. If a release is indicated, we take steps to protect the public health and safety through remediation. My responses to Sunset's findings are listed below.

1. No complaints have been brought by the public and history shows that there was no demand from the public to create the agency in the first place.

There have been no complaints because Texas PGs provide geologic services at a high level of excellence knowing that their livelihood can be taken away if they provide poor services that could cause harm to public health and the environment.

2. There has been no measurable impact of Geoscientist licensing on public protection.

A) It is inherently difficult to point to measurable impacts in geoscience that occur on a rapid time scale. There are certainly areas where catastrophic events can occur with bad geoscience work (subsidence, sinkhole collapse, geotech, etc.) that some can point to. In the world of water availability, impacts can take decades to develop. Unlike a bridge or building collapse that one can clearly point to, geologic impacts are inherently slow-moving. The public is entitled to standards of practice of geoscientists that require the public's interests are evaluated and considered in geoscience work regardless of the time scale of impact. Remove the license and there is no vehicle to keep the public's interests at the forefront of geoscience work, nor a mechanism to police or keep out bad actors.

B) Geologists have been involved in nearly all areas of water-resource planning, management, and development for many years, especially since the passage of Senate Bill 1 in 1997. Geologists (hydrogeologists) have been developers of conceptual and numerical models of groundwater flow systems and groundwater availability, as required by the State for all of Texas'

water-planning regions. This work has been fundamental to the State's development of strategies to ensure that groundwater will be a sustainable resource for all Texans over the next 50 years. All Texans are beneficiaries (direct and indirect) of this work by geologists. Furthermore, geologists assume leading roles in assessments of soil and groundwater contamination, remediation of contaminated sites, and in the assessment of sites for the disposal of municipal and hazardous wastes, including radioactive wastes.

There is also the work of qualified geologists with respect to assessments of coastal subsidence and erosion, and the stability of substrates for construction of roads and large private and public-works projects.

3. The Board was not established in the first place to protect the Public, but primarily "to legitimize the profession" and to protect Geoscientists from the engineers and from untrained competitors.

A) Rather dissolve the agency and the standards of geoscience practice, the report should recommend ways to improve meaningful enforcement. For example, perhaps make the rules clearer about conflicts of interest and the public interest.

B) Licensing geologists removes engineers from liability for failure traceable to geological factors for which engineers do not have the background/experience to render professional assessments. The public is entitled to standards of practice of geoscientists that require the public's interests are evaluated and considered in geoscience work regardless of the time scale of impact. Remove the license and there is no vehicle to keep the public's interests at the forefront of geoscience work, nor a mechanism to police or keep out bad actors. With respect to protection from "untrained competitors" is what licensure in any area of professional services is intended to ensure.

4. Almost no geologists deal directly with the public – our clients are mainly organizations. Therefore licensing is not necessary for public protection.

Geologists deal with a broad cross-section of clients in the public and private sectors. Both public-sector and private-sector clients seek services from qualified professional geologists, especially where such services involve reports submitted to local, county, and state agencies, or in matters involving assessments of investment for development of land and energy or mineral resources or the valuation of groundwater for development of public supply, or assessments of land for disposal of hazardous waste (commercial and municipal). The PG credential clearly identifies the individual who assumes responsible charge for such work and ensures that all such work is conducted in accordance with established professional standards.

5. There are too many (50%) Texas geologists who are exempted from the requirement to get a license.

When we wrote what became the geoscientist licensure bill, we adopted the exemptions that were granted by all other states at that time. In all such cases, geologists whose work did not involve matters of public safety, health, and welfare were exempt from regulation. This included geologists employed in mining, in oil and gas exploration and development, and geologists employed by state or national agencies such as the US Geological Survey, the US EPA, the US Bureau of Land Management, etc. The number of geologists working in the oil and gas industry of Texas is not a factor that should bear any weight in the assessment of geoscientists' licensure program because they are, by definition, not involved in matters of public safety, health, and welfare. Geologists who work in the private sector and who deal with the effects of oil and gas, mining, construction, etc. bear that liability. There are engineers in the oil and mining sectors that are unlicensed.

6. No meaningful enforcement action over the life of the Board. –

I think it actually demonstrates a process that works, albeit imperfect. I disagree with the Supreme Court decisions all the time, but still see the need for it to exist. Instead, I would argue that the Sunset should make recommendations to improve its enforcement and standards. Let's raise the bar rather than get rid of it.

7. More direct oversight of geoscientists' work is provided by other state agencies' (Texas RRC, TCEQ), which renders ongoing state regulation of geoscientists unnecessary to protect the public.

The PG credential establishes a common (that is, across the board) basis for assessing the qualifications of geoscientists to assume liability for work conducted for clients in the private sector and in the public sector. This eliminates the necessity of defining fundamental credentials on an agency-by-agency basis. It does not eliminate the ability of an agency to require additional certification for specific objectives.

8. 78% of current Texas PGs were Grandfathered, therefore did not take ASBOG,

therefore there is no guaranty that they are, in fact, well-trained.

A) Grandfathering is a fact of life for any licensing program enacted by any state. This was a central factor in our discussions when we wrote the licensure bill in 2001. The standards for qualification as a grandfathered licensee or as a future applicant for licensure were based on the certification requirements established in 1963 by the American Institute of Professional Geologists (AIPG). In fact, all PG licensure programs established after 1963 are based on AIPG standards. Grandfathered geologists in Texas were typically practitioners who had accumulated years of experience well in excess of the AIPG standard in the public sector or in the private sector, and many held advanced degrees.

B) This is a disingenuous comment that simply ignores the reality of implementing a license in 2001 on a profession and its practitioners. The act fully understood this was going to be the case initially, but would change over time. Those statistics will be flipped in the next 20 years as practicing grandfathered geologists retire. Also, note that in order to be grandfathered there was minimum standards of education, experience, and professional and personal references in addition to other standards that had to be satisfied. I would say there was vetting to be grandfathered.

9. The licensee population is steadily declining, from 6,600 in 2003 to 4200 in 2017.

The decline in PGs from 6,600 to 4,200 between 2003 and 2017 is attributed to grand-fathered geoscientists dropping their license or retiring. From 2009 to 2018, the number of PG's older than 65 has increased from 301 to 808 indicating greater than 20% of the current PGs are nearing retirement age. As of 2018, 2,632 PGs are older than 55, which accounts for greater than 65% of the licensed geoscientists in Texas. New PGs are not currently replacing retiring geoscientists at a sustainable rate due to the significant downturn in the geoscience industry following the downturn in the oil and gas industry in 2014. This caused a decline in available job opportunities as well as a decline in applied geoscience enrollment in universities.

10. Less restrictive means exist to ensure the safe practice of geoscience (i.e. certification by AIPG, AEG, AAPG, etc.).

None of the above-listed organizations has statutory authority to enforce continuing education requirements or disciplinary actions on geoscientists in Texas or in any other state. They exist to establish credentials for professional certification for members of different voluntary organizations, not to act as regulatory agents for the state.

11. Only half of the states regulate the practice of geoscience or geology, while all states regulate engineers and architects.

As of 2018, 32 states and the protectorate of Puerto Rico regulate the practice of geoscience. This is 65 percent of the 50 states and Puerto Rico, which is a bit more than "just over half". States which have chosen not to regulate the practice of geology have done so for reasons unrelated to those of the 32 states and Puerto Rico (e.g., small numbers of geologists working in private practice related to public safety, health, and welfare).

Texas is in charge of its own affairs and of its own destiny. It need not look to decisions elsewhere to decide how to regulate professions in Texas.

Any Alternative or New Recommendations on This Agency:

I look forward to Sunset's future support of PG licensing in Texas. I will inform my state representatives and environmental groups of my concerns.

Sincerely,

Aaron Evans, P.G.

My Comment Will Be Made Public: I agree