

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Wednesday, August 15, 2018 2:14 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: David

Last Name: Johns

Title: Geologist

Organization you are affiliated with: Licensed Professional Geoscientist
#2799

Email:

City: Austin

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:
August 15, 2018

Texas Sunset Advisory Commission
P.O. Box 13066, Austin, Texas 78711
Email: sunset@sunset.texas.gov

RE: Recommendation to Abolish the Texas Board of Professional Geoscientists

Mr. Chairman and Members of the Texas Sunset Advisory Commission,

I am commenting as a licensed professional geoscientist on the recommendation of the Sunset Advisory Commission (SAC) staff to abolish the Texas Board of Professional Geoscientists. I strongly feel that licensing geoscientists provides a benefit to the public that other forms of regulation such as certification or registration cannot. I've worked as a geologist in the public sector for local government for the past 29 years. In general, the SAC staff recommendation appears more geared toward eliminating a standard of practice rather than raising the bar of performance. The staff report is short-sighted and incomplete in evaluating the different avenues of public benefit from geoscience services. In my view, licensed geoscientists provide public benefit even if they are not always easily measured. Public benefits are both direct and indirect. Below are responses to specific comments by SAC staff.

Issue: "As a result of years of negotiations and compromises with other professions and industries, 10 broad areas of geoscience are exempt from regulation... almost half of the practicing geoscientists in Texas are unregulated by the board. While some of these unlicensed geoscientists could simply be practicing illegally without a license, the broad exemptions, particularly for the oil and gas industry, likely account for the large percentage of unregulated

geoscientists.”

It is a problem that many professionals, specifically the large number practicing in the energy industry, are exempt from licensing. However, requiring many of these professionals to be licensed is the answer to this problem, not eliminating regulation of all geoscientists. It is misleading to cite the exemption of “geoscientific work performed by an employee or subordinate of a licensed professional geoscientist” as an oversight in licensing. This work must be exempt or there would be no avenue for aspiring licensees to acquire the necessary years of experience for licensure. These individuals are working under the supervision of a PG, and the work they do is guided, reviewed, and, if necessary, corrected by that professional.

Issue: “The public is not the primary consumer of most direct geoscience services.”

This is true for many professions. While the initial consumer of the service is not the public, the public is the ultimate consumer of the services provided.

This is certainly untrue from a health and safety perspective as there are many areas that the work of geoscientists impact these two issues. Ensuring that water wells are properly installed for adequate and consistent quality and quantity is inherently beneficial to the public. Understanding how groundwater and surface water are interconnected and applying that knowledge toward effective management of those resources is inherently beneficial to the public. Performing any work that isolates or remediates hazardous substances is inherently beneficial to the public. It is easy to think of industrial clients who pay for geoscience services as the direct beneficiaries, but I have personally conducted work as an environmental consultant at many sites where environmental hazards to the public were removed. Brownfield redevelopment is one of the more easily recognized examples of the public benefiting from geoscience services.

These protection services could be quantified: for example by calculating the volume of groundwater used, the volume of groundwater protected, the area of geologic hazard zones avoided, and the cost of infrastructure repair/replacement/relocation as a result of placement in geologic hazard zones that were not evaluated in the past. Additionally, the license creates a requirement that PGs must “protect the public in the practice of their profession.” This requirement is exceptionally important for geoscientists in the private sector who work for industrial clients. In hiring geoscience consultants to address their issues, these businesses get the expertise of the consultant, but they also get the benefit of impartiality that comes with hiring an outside entity to evaluate their potential hazards. That benefit is lessened when the geoscientist performing the work is not required under 22 Tex. Admin. Code §851.106(a) to protect the public. Furthermore, this requirement inspired public confidence in the integrity of the scientists who perform this work, and there is a process for recourse if the standard is not met.

Locally, licensed geoscientists respond to complaints from the public about, for example, water discharging from the ground in their yard or holes appearing next to their house. A PG license helps provide a level of confidence and professionalism to the public that there is a qualified scientist examining the problem/complaint.

Copied is an excerpt from a letter sent to the TBPG in 2002 regarding consistently poor quality environmental assessments, some of which were sent to state agencies as well. I strongly feel that licensing geoscientists improved the quality of reports like those referenced below.

Typically these tracts are for subdivisions, retail or commercial development that will be open to or sold to the public. Omission of these features during the development review process can lead to structures built over features that can create safety risks in the future. Some Central Texas examples include: a sinkholes opening below a water quality/detention pond in south Austin (Arbor Trails shopping center). This failure release thousands of gallons of untreated runoff into a public water supply aquifer and cost the owner in the neighborhood of \$1 million dollars to repair. In 2018, on Cambria Drive in Roundrock a cave opened below a roadway and adjacent to homes. Cambria Drive is particularly interesting as some locals interviewed recalled exploring the cave before the subdivision was constructed suggesting that this was a known feature at the time of development and infrastructure and homes were built over it.

Of course, once the problems occur the developer is long gone and taxpayers and home owners are left with the consequences and the bill. Both of the developments mentioned above were constructed before licensing of geoscientists and may have been prevented had licensed professional geoscientists conducted the field work to identify these karst features.

Issue: “Most commonly, professional geoscientists work with other licensed professionals, such as engineers, to produce aspects of reports submitted to other state and federal agencies related to groundwater monitoring and development, remediation (clean-up sites), and evaluating soils for structural design of buildings, roads, bridges, and agricultural use.

The idea that geoscientists wouldn’t need to be licensed because we (1) work closely with other licensed professionals, or (2) have direct oversight of our work provided by other agencies is frankly ridiculous. We may

sometimes work with other licensed professionals, but the work we perform is very different from that of an engineer, for example. Their license does not provide any sort of oversight of the work we perform. Another example is that I frequently installed water wells with licensed drillers as a consultant. Just because they were licensed to operate a drill rig and set the well did not mean that they were qualified to do any of the other work that went into installing and operating that well. The P.G. logs the lithology as the well is drilled, decides where the well should be screened for production (all of which becomes more complicated at contaminated sites), and performs any evaluation to determine production capability of the screened formation, including slug tests and pumping tests. Similarly, just because I was directing drill crews in these ways did not lessen their need to be licensed to perform their work.

Issue: "The Texas Commission on Environmental Quality and the Railroad Commission of Texas evaluate much of the regulated geoscience work submitted by licensed geoscientists and registered geoscience firms for permit applications, groundwater quality testing, site evaluations, soil testing, and participation in site remediation (clean-ups). If the geoscience in these reports or evaluations fails to meet the respective standards of the two large state agencies, agency staff work directly with the submitting entity or professional to correct deficient geoscience work." In the state agencies, a PG might not ever be reviewing the submission of the PG and there is no guarantee one will. At TCEQ in the Edwards Aquifer Protection program for example, staff rarely have the opportunity or are given the time to go into the field to verify what is submitted to them for review which severely limits their "ability" to note and "correct deficient geoscience work."

Removing the licensing requirement opens the door for less qualified people to submit reports, and therefore increases the time spent reviewing those reports by regulatory agencies. This is not limited to state agencies like TCEQ and RCT. Poorly completed work may have to go through several iterations of submissions to regulators and may even have to be redone at huge expense to all involved. The licensing requirement helps prevent this waste of time and money by ensuring that work is completed or at least reviewed by someone at a superior practice level prior to submission.

Sincerely,

David A. Johns, PG # 2799

Any Alternative or New Recommendations on This Agency: No comments

My Comment Will Be Made Public: I agree