

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Thursday, August 16, 2018 7:51:30 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 1:33 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: Christopher

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

This letter is submitted to document my opposition to the Texas Sunset Advisory Commission's (The Commission) recommendation to abolish the Texas Board of Professional Geoscientists (TBPG). Upon review of the Staff Report, it is apparent that the Commission's Director, Project Supervisor, Project Manager, and the remaining personnel listed in association with the preparation of the Staff Report, lacked the fundamental knowledge and understanding of the Geoscience Profession in Texas and were therefore incapable of accurately evaluating the need for regulating Professional Geoscientists (PGs) by the TBPG. Below are my comments on some of the key deficiencies identified in the Staff Report.

Lack of Understanding of the Geoscience Profession In their review of the Geoscience Profession, the Commission's Staff failed to adequately evaluate the environmental related services provided by geoscientists and the requirements established by the TBPG to ensure that only qualified professionals are authorized to provide these services. The environmental services provided by PGs go well beyond the "conducting of environmental site assessments" which was not only undefined or further evaluated but was also the only environmental related service listed within the Staff Report. The following is a more extensive list of just some of the environmental services provided by PGs:

- Investigation and evaluation of potentially contaminated media (i.e., soil, groundwater, sediment, surface water, and air);
- Evaluation of laboratory analytical data to determine potential human health and ecological exposures to contaminated media and the subsequent risk associated with exposure;
- Determination of hydraulic gradients and hydraulic conductivities within contaminated groundwater zones;
- Evaluation of geologic formations and subsurface conditions that could serve as preferential pathways or barriers for contaminant migration;
- Evaluation of contaminated groundwater zones and their potential to impact public drinking water supplies and private water wells;

- Evaluation and implementation of remedial actions at sites with contaminated media; and
- Preparation of Risk-Based Assessments.

By not adequately or effectively evaluating the environmental services provided by PGs, the Sunset Commission's Staff failed to recognize the critical role PGs play in the protection of human health and the environment.

The environmental services provided by PGs evaluate not only the acute effects of exposure to contaminated media but also the chronic effects which can take decades to manifest within an exposed population. By concluding that catastrophic events or public harm are required to justify the continued existence of the TBPG, the Sunset Commission's Staff has demonstrated that they lack the fundamental knowledge and understanding of the Geoscience Profession and the risks to human health and the environment that are evaluated by PGs. The abolishment of the TBPG would allow unqualified individuals the opportunity to make conclusions and recommendations that could affect public health and the environment.

Sunset Commission's Staff Qualifications To accurately and effectively assess the necessity of something, the individual(s) conducting the assessment should have the educational background and relative experience to not only conduct the evaluation but to also develop accurate findings, conclusions, and recommendations. The following is a summary of the education and experience associated with Sunset Commission Staff credited with the preparation of the Staff Report:

- Director of Sunset Commission
 - o Education - Bachelor of Arts in Government and Master of Public Affairs.
 - o Work Experience - Director of Sunset Commission (~ 9 years), Deputy Director (~ 8 years), Assistant Director (~6 years), Policy Analyst (~14 years), Store Manager (~ 1 year)
 - Project Supervisor:
 - o Education - Bachelor of Arts in History and Dance and Master of Public Administration. Work Experience - Review Director Texas Sunset Advisory Commission (~18 years)
 - Project Manager:
 - o Education - Bachelor of Arts in Archaeology and Juris Doctor in Law.
 - o Work Experience - Volunteer Law Clerk (11 months), Legislative Aide Intern (4 months), Legislative Aide (~1.5 years), Legislative Director (~10 months), Staff Attorney and Policy Analyst (~ 3 years)
 - Policy Analyst:
 - o Education - Bachelor of Arts in Political Science and Master's Degree in Public Affairs. Work Experience - National Internship Coordinator (~ 2 years), Political Courage Test Department Director (~1.5 years), Legislative Research Department Program Coordinator (~ 1.5 years), Research Analyst Intern (~ 5 months), Policy Analyst (~ 2.3 years)
- Based on the information presented above, none of the individuals associated with the preparation of the Staff Report have science, engineering, or technical degrees and none of them have worked in a technical field. The lack of relative education and experience combined with the lack of understanding of the Geoscience Profession makes it impossible for the listed individuals to understand the complexities of the environmental services provided by PGs or the regulatory framework that PGs work within to provide accurate assessments and evaluations of the potential risks to human health and the environment. In order to effectively and accurately evaluate the Geoscience Profession and the necessity of the TBPG, review staff must include individuals with appropriate educational backgrounds and work experience.

Inconsistencies with Other Sunset Evaluations As part of the review of the Staff Report for the TBPG, Sunset Reports associated with other licensed professions were also reviewed. Review of these other reports identified critical items that were omitted during the Sunset review of the TBPG. As previously stated, almost no evaluation of the environmental services provided by PGs was considered and review staff did not meet with any PGs to observe their activities in the field or in the office; although during review of other licensed professions (i.e., Professional Engineers), review staff performed these activities. Based on the information provided in the Staff Report, the evaluation of the services provided by PGs was limited to the research of case law, the legislative origin of the board, and evaluations of municipal codes; none of which are appropriate resources to understand the services that PGs provide, particularly within the environmental realm. The inability of the review staff to identify the appropriate resources needed to effectively evaluate the TBPG and PGs further emphasizes that they lacked the relative education and experience necessary to conduct the evaluation, and their refusal to evaluate the Geoscience Practice using the same level of care as done in the evaluation of other licensed professions, demonstrates their failure to conduct the activities necessary to understand and effectively evaluate the importance and necessity of the TBPG and the PG certification in Texas.

Professional Registration Exemptions

The Staff Report indicates that 48% of the practicing geoscientists in Texas are exempt and therefore unregulated by the TBPG. The exempt geoscientists include those working in oil and gas exploration, energy resources, metals and mineral resources (private industry only), teaching, and government research. These geoscience activities are exempt since these professional services are not considered to pose a threat of potential harm to the public.

The percentage of geoscientists identified as exempt and unregulated was identified by the review staff as a negative issue in their review of the TBPG and the review staff concluded that the number of exempt PGs indicated the lack of a need or demand for the licensing of PGs. In comparison, the Sunset review of Professional Engineers in 2011 identified that 63% of practicing engineers in Texas were not licensed or regulated; however, this was not identified as an issue in that review. The lack of consistency in evaluating the same metric between licensed professions further emphasizes the review staff's lack of relative education and their inability to effectively and accurately evaluate the necessity of the TBPG.

Loss of Funds

The Staff Report indicates that the TBPG has historically generated revenue through licensing fees and enforcement penalties that are collected in excess of what is required to cover the TBPGs expenditures. The Staff Report further indicates that in 2017 the TBPG deposited over \$200,000 into the General Fund and that abolishment of the TPBG would result in a loss of over

\$1,000,000 to the General Fund by 2024. Although the Staff Report recommends that the TBPG be abolished, they provide no alternative or plan to replace the funds lost through abolishment.

Any Alternative or New Recommendations on This Agency:

- Continue the Texas Board of Professional Geoscientists
- Replace unqualified Sunset Review Staff with individuals who have the appropriate education and work experience to conduct the reviews
- Ensure that future Sunset Reviews of licensed agencies are of similar scope and that the metrics used are evaluated consistently between professions

My Comment Will Be Made Public: I agree