

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Monday, November 26, 2018 12:29:55 PM

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

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Monday, November 26, 2018 12:10 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS%20BOARD%20PROFESSIONAL%20LAND%20SURVEYING

First Name: Michael

Last Name: MacInnis

Title: Owner RPLS

Organization you are affiliated with: Native Survey Co.

Email:

City: Taft

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed: As a Registered Professional Land Surveyor, I do not believe that combining the Texas Board of Profession Surveying with the Texas Board of Professional Engineers is in the public interest. Land surveying in Texas is a unique and complicated profession. Although surveyors frequently interact with professional engineers, mainly civil engineers, those interactions often lead to tensions between them because of how little engineers are trained in what surveyors actually do. Engineers tend to evaluate situations strictly by the numbers, arriving at a set, definitive set of calculations. While much of surveying does the same, Land Surveying, which is the only element of surveying that is regulated by the Board, often has much more to do with case law than it does with mathematical calculations. Property owners have legal rights and obligations that supersede all such calculations. Convincing someone who relies heavily on the numbers that this may not be the correct solution can be a difficult task, and having a regulating board with only a single member who fully understands these things is not in the best interest of the public in general nor property owners in particular. That one lone board member could too easily be overruled by the rest of the board, and bad decisions could result that would inevitably need to be resolved by the courts. Property boundaries disputes are often issues of law, and not of issues falling under Board regulation, which is one of the things that can make these cases so complicated.

Any Alternative or New Recommendations on This Agency: Having read the review, it is hard to disagree with at least some of the findings. The resolution time for complaints is obviously far too long and the results can be disappointing. However, for the reasons stated, I believe that dissolving the Board and assigning its duties to the Board of Engineers would make things worse, rather than improve them. One of the problems mentioned by the review was the fact that having board members and/or investigators who have business interests in the profession could result in a conflict of interest.

While this may be true, the alternatives are few. Since most Professional Land Surveyors will remain involved, in some manner, with the profession for as long as they are physically and mentally able to do so, it would be difficult to find a qualified board member who was not. That being said, one may be induced to suspend such activities, but only if the compensation was high enough to allow them to pursue it full time. For the reasons previously

mentioned, to have a board where few if any of the members were actually highly experienced in the profession would likely result in constant litigation rather than greater effectiveness. A better solution would be to have a board member or investigator recuse themselves from any matters with which they were personally acquainted. Also, it should be mentioned that one of the biggest problems the Board has had is with enforcement. The Board has the authority to assess a fine, and suspend or even revoke an individual's license for serious violations. However, the biggest problems arise from individuals and/or companies that conduct land surveying in Texas without a license. You cannot revoke a license that they do not have. The Board has found it difficult, if not impossible, to enforce these rules because it would require a criminal prosecution and they have found the Attorney General's office reluctant to file charges, claiming that they have no injured party. The Board is also limited in the amount that an individual can be fined, I believe it is around \$1500 per offense. While this could be a hardship for some, for a business operating illegally in the State, it is nowhere near enough to discourage such behavior and simply becomes a relatively small cost of doing business. This needs to be corrected somehow, probably by legislation, before the Board has any real power to enforce these rules. And as previously stated, this situation would not be improved by dissolving the present Board, and would most likely just make it worse. Perhaps a more often and more rigorous oversight of the present Board and its activities would be a better solution.

My Comment Will Be Made Public: I agree