

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: Tuesday, August 28, 2018 1:28 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: Paul

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State: Texas

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

I appreciate this opportunity to respond to the Texas Sunset Advisory Commission Staff Report (Staff Report) recommending the abolishment of the Texas Board of Professional Geoscientists (TBPG). I strongly disagree with the Staff Report recommendation that the TBPG be abolished. I find the evidence cited in the Staff Report justifying the abolishment of the TBPG to be weak and inconsequential.

I have practiced engineering geology, environmental geology, and hydrogeology for over 37 years. I am licensed as a professional geologist/geoscientist in several states, including Texas, by either grandfather clause and exam. Additionally, I am a Certified Professional Geologist through the American Institute of Professional Geologist. I therefore believe that I have a well-rounded understanding of the values of state board licensing and professional organization certification.

The notion that certification through professional societies and technical reviews of geoscience work by state agencies provide more protection of public health, safety, welfare, and the state's natural resources than the TBPG is a misconception. Neither professional societies or state agencies (e.g. the Railroad Commission of Texas and Texas Commission on Environmental

Quality) have state regulatory authority to discipline an individual for unethical practice or prohibit an unqualified individual from practicing

geoscience or engineering for that matter in the State of Texas. The

authority to prohibit an unqualified and unethical individual from practicing geoscience in Texas is the TBPG.

Additionally, state agencies do not review geoscience works (i.e. Phase II Environmental Site Assessments or water resource reports) prepared for individuals of private companies ("The Public" as defined in the Texas Geoscience Practice Act); therefore, the performance of these geoscience works by unlicensed, unqualified individuals would go unchecked. I have recently filed a complaint with the TBPG regarding the performance of unlicensed practice of geoscience, a Phase II Environmental Site Assessment, for a financial lending institution. The individual is not

licensed by the TBPG and in their report misused the Texas Risk Reduction Program risk standards, indicating that the property would not be an issue if brought to the attention of the regulatory agency having jurisdiction; when in fact, the data does indicate an issue. This flawed work is what the lending institution will use in making its investment decision thinking there is a low to no environmental risk. If there is one there are others.

The Staff Report asserts that the need for licensing geoscientist is weakened in that “effectively half” of the geoscientists practicing in Texas are exempt from regulation. These exemptions, mainly oil and gas exploration and development and teaching/research, were a decision made by the State Legislature and not the TBPG. Any change to these exemptions would require action by the State Legislature and may be made during future legislative successes. Additionally, the Staff Report states that grandfather clauses “tend to undermine the promise of competence assumed when engaging a licensed professional.”, but also states that “grandfathering provisions are not unusual in establishing regulatory programs”. Grandfather clauses exist in many professional licensing acts; this includes the Texas Engineering Practice Act. Do the authors of the Staff Report believe that those Texas Professional Engineers (TPE) licensed under the Texas Engineering Practice Act grandfather clause less qualified than those Texas Professional Engineers licensed by exam?

Those who were grandfathered as licensed geoscientists still had to meet the requirements spelled out in Texas Geoscience Practice Act and demonstrate the appropriate level of education and provide recommendation letters attesting to their experience and competence just as those individual not grandfathered. These grandfathered professionals are still subject to the rule and ethics requirements of the TBPG and are subject to disciplinary action by the TBPG if found to be in violation of TBPG rules.

The Staff Report indicates that the TBPG takes no significant enforcement actions and no substantiated complaints alleging unsafe or incompetent practice made to the TBPG. One probable reason for few complaints being filed is a reluctance by State employees, licensed geoscientist and the public to file complaints and report rule violations as they do not want to get anyone in trouble or feel it is not their place to report violations as I have personally heard one government employee state, as have other licensed individuals. This needs to change.

Lastly, the TBPG is self-sufficient and does provide revenue to the State’s General Revenue Fund. Maybe not as much as other boards, but still a notable sum.

In closing, I reiterate that I strongly disagree with the Staff Report recommendation to abolish the TBPG and repeal the Texas Geoscience Practice Act. The licensure of geoscientist does benefit the public by setting a minimum standard of qualifications for individuals tasked with performing geoscience work for the public and providing a means by which those who are unqualified or unethical are disciplined and protect the public health, safety, welfare, and the state’s natural resources.

Any Alternative or New Recommendations on This Agency: Work harder on public outreach.

My Comment Will Be Made Public: I agree