

# TEXAS BOARD OF PROFESSIONAL ENGINEERS

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## Agency at a Glance

The Texas Board of Professional Engineers seeks to protect public health, safety, and welfare by ensuring that only qualified individuals provide engineering services to the public. In fiscal year 2011, the Board licensed 2,651 new Professional Engineers, bringing the total number of licensees to 55,407. In addition, the Board issued 1,918 new Engineer-in-Training certificates, bringing the total to 13,154. To achieve its mission, the Board carries out the following key activities.

- Licensing Professional Engineers and certifying Engineers-in-Training.
- Registering engineering firms, including sole proprietorships, partnerships, corporations, and joint stock associations.
- Investigating complaints alleging illegal or incompetent practice of engineering by both licensed and unlicensed persons and taking disciplinary action when necessary.

As a state agency operating under the Self-Directed Semi-Independent (SDSI) Agency Project Act, the Board does not receive legislative appropriations, but instead collects its own revenue from licensing fees and sets its own budget.

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*Changing the organizational approach for regulating professional engineers is not warranted at this time.*

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## Summary

Through the evaluation of the Board, the Sunset Commission found that the State has a continuing interest in regulating the practice of engineering. The Sunset Commission also evaluated other organizational approaches for regulating Professional Engineers, but did not find that structural changes would result in significant efficiencies or cost savings to the State at this time. Finally, the Commission compared the Board's statute against standard licensing practices and identified changes that would enhance fairness, public protection, and improve the consistency of the Board's operations.

The Commission also found that the Board should continue to operate outside the legislative appropriations process under the SDSI Act as discussed in a separate section of this report. The following material summarizes the Sunset Commission's recommendations on the Board.

## *Issue 1*

### **Texas Has A Continuing Need for the Regulation of Professional Engineers.**

The Texas Board of Professional Engineers regulates the practice of engineering by licensing individuals and firms that provide engineering services to the public. The Sunset Commission found that Texas has a continuing need to license and regulate Professional Engineers to protect consumers and ensure the competent and ethical practice of engineering.

### **Recommendation**

#### ***Change in Statute***

##### **1.1 Continue the Texas Board of Professional Engineers for 12 years.**

This recommendation would continue the Board as an independent agency responsible for regulating the practice of engineering.

## *Issue 2*

### **Key Elements of the Engineering Practice Act's Licensing and Regulatory Requirements Do Not Conform to Common Licensing Standards.**

In reviewing the Board's regulatory functions, the Sunset Commission found that certain licensing and enforcement processes in the Board's statute do not match model standards developed over many years of Sunset reviews of regulatory agencies.

### **Recommendations**

#### ***Change in Statute***

##### **2.1 Require the Board to adopt clear procedures governing all parts of the testing process, including test administration.**

This recommendation would eliminate specific references to a testing format that is scheduled to be phased out by 2014 by the national testing entity responsible for developing the engineering exams. The Board would also update its guidelines and website detailing procedures for the testing process.

##### **2.2 Require the Board to conduct fingerprint-based criminal background checks of Professional Engineer applicants and licensees with active licenses.**

This recommendation would require the Board to conduct fingerprint-based criminal background checks instead of the name-based checks the agency currently uses that can be inaccurate and provide incomplete information. Fingerprint-based checks through the Department of Public Safety on all future applicants and current licensees would provide complete federal and state criminal histories of applicants. This change would ensure that if the Board is to check a person's criminal background, as the Engineering Practice Act requires, it does so in a way that works appropriately to provide the information. Currently, 51 agencies use fingerprints to assess criminal backgrounds of persons they license, with the licensees typically paying the cost.

### **2.3 Prohibit the Board from collecting the \$200 professional fee before applicants satisfy licensing requirements as Professional Engineers.**

Under this recommendation the Board would no longer collect the \$200 professional fee upon application for licensure. Instead, the Board would collect the fee upon issuance of a license, eliminating the fee assessment on applicants who either fail to receive Board approval to take the professional engineer exam, or fail to pass the exam.

### **2.4 Increase the Board's administrative penalty authority to \$5,000 per violation per day for violations of the Engineering Practice Act or Board rules.**

This recommendation would increase the Board's administrative penalty authority for individuals who violate the Engineering Practice Act or rule to \$5,000 per violation per day, from the current \$3,000 per violation per day. This \$5,000 penalty maximum is more in line with other comparable occupational licensing agencies.

### **2.5 Authorize the Board to issue summary suspension orders.**

This change would authorize the Board to summarily suspend the license of any person or firm that is committing fraud, violating the Engineering Practice Act, or is about to engage in fraudulent activity or violations. Summary suspension authority would be limited to situations presenting an immediate threat to the public welfare, and would be subject to appeal and other due process provisions for timely hearing after the initial suspension.

### **2.6 Grant cease-and-desist authority to the Board for the unlicensed practice of engineering.**

This recommendation would allow the Board to issue cease-and-desist orders when it discovers an individual or entity operating without a license. As part of this recommendation, the Board would also be authorized to assess administrative penalties on unlicensed individuals or entities who fail to comply with the Board's order.

## **Fiscal Implication Summary**

The recommendations in this report would result in an estimated loss of \$44,000 to the General Revenue Fund, as summarized below.

*Issue 2* — Prohibiting the Board from collecting the \$200 professional fee from applicants before they have satisfied the licensing requirements would result in a loss of approximately \$44,000 annually to the General Revenue Fund.

#### ***Texas Board of Professional Engineers***

<b>Fiscal Year</b>	<b>Loss to the General Revenue Fund</b>
2014	(\$44,000)
2015	(\$44,000)
2016	(\$44,000)
2017	(\$44,000)
2018	(\$44,000)

