
Texas Board of Professional Land Surveying

Staff Contact: Meredith Whitten

S.B. 260 Shapleigh (Solomons, et al)

Summary

The Texas Board of Professional Land Surveying (the Board) was created in 1979 by merging the Board of Examiners of Licensed State Land Surveyors and the State Board of Registration for Public Surveyors. The Board has two primary missions: license Registered Professional Land Surveyors and Licensed State Land Surveyors; and enforce the Professional Land Surveying Practices Act, including investigating and resolving complaints. The Board operates with an annual budget of about \$379,000, and has 4.5 staff positions.

Senate Bill 260 continues the Board for 12 years, and contains the Sunset Commission's recommendations to provide the Board with needed accountability, structure, and public input. The legislation clarifies the Board's authority to create exam advisory committees, requires the Board to establish its enforcement process in rule, and authorizes the Board to order restitution as part of an agreement in an informal settlement conference. The Legislature adopted all of the Sunset Commission's recommendations, and added a provision to reduce the size of the Board from 10 to nine members. The list below summarizes the major provisions of S.B. 260, and a more detailed discussion follows.

Sunset Provisions

1. Authorize the Board to Create Exam Advisory Committees.
2. Require the Board to Establish Its Enforcement Process in Rule.
3. Conform Key Elements of the Texas Professional Land Surveying Act to Commonly Applied Licensing Practices.
4. Require the Board to Redact All Identifying Information From Frivolous Complaints.
5. Continue the Texas Board of Professional Land Surveying for 12 Years.

Provision Added by the Legislature

6. Reduce the Size of the Board From 10 to Nine Members.

Sunset Provisions

1. Authorize the Board to Create Exam Advisory Committees.

This provision clarifies the Board's authority to create advisory committees to help the Board in developing its exams. The Board must adopt rules regarding the purpose, size, and membership of these committees.

Senate Bill 260 prohibits Board members from serving as voting members on the advisory committees, but authorizes them to attend committee meetings as liaisons to the full Board. Because of the technical nature of creating exams, S.B. 260 specifies that state law requiring advisory committees to include consumers, or public members, does not apply to these committees. The legislation specifies that the exam advisory committees must comply with the Open Meetings Act, including applicable posting and record-keeping requirements, although the bill clarifies that the committees can meet in closed session to discuss material related to test items, as provided in current state law.

2. Require the Board to Establish Its Enforcement Process in Rule.

Senate Bill 260 requires the Board to adopt an enforcement process specifying that staff or contract investigators conduct investigations; staff may dismiss baseless complaints; staff determine violations and recommend sanctions; and the Board approves final sanctions. The bill also prohibits the Board from considering previously dismissed complaints when deliberating on a current complaint, but authorizes the Board to consider a licensee's previous history of violations when determining sanctions for a current violation.

The legislation specifies that in enforcement cases necessitating Board-member involvement, the Board must appoint a subcommittee, consisting of at least one public member, and that subcommittee members must recuse themselves from voting on violations and sanctions. Also, should Board members act as consultants to staff on a complaint case, those Board members must recuse themselves from disciplinary hearings related to the case.

3. Conform Key Elements of the Texas Professional Land Surveying Act to Commonly Applied Licensing Practices.

Senate Bill 260 includes eight provisions that bring the Board in line with standard licensing agency practices, consisting of the following.

- Eliminates the application notarization requirement for individuals who apply for licensure with the Board.
- Clarifies the Board's authority to adopt rules that follow the general guidelines in Chapter 53 of the Occupations Code for dealing with criminal convictions.
- Eliminates the requirement that complaints submitted to the Board be notarized, requiring the Board to accept complaints that are not notarized, but signed as true and correct.
- Requires the Board to adopt, by rule, guidelines for informal settlement conferences.

- Requires the Board to adopt a written probation guide in rule to ensure that license probations are used consistently.
 - Authorizes the Board to include restitution as part of an agreement in the settlement conference process. The bill limits this authority to ordering a refund not to exceed the amount the consumer paid to the surveyor and specifies that any restitution order may not include an estimation of other damages or harm.
 - Requires the Board to adopt an administrative penalty matrix to appropriately relate penalties to different violations of the Board's Act or rules.
 - Eliminates statutory language that sets and caps fee, and grants the Board the flexibility to set fees at the level necessary to recover program costs as conditions change.
- 4. Require the Board to Redact All Identifying Information From Frivolous Complaints.**

The Legislature modified the Sunset provision to provide that complaints filed with the Board, including those deemed frivolous by the Board, are public information. However, the Board must redact all personal and identifying information about a licensee on frivolous complaints.

5. Continue the Texas Board of Professional Land Surveying for 12 Years.

This provision continues the Board as a separate, stand-alone agency for the standard 12-year period.

Provision Added by the Legislature _____

6. Reduce the Size of the Board From 10 to Nine Members.

The Legislature added this provision to comply with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. Senate Bill 260 removes one of the Registered Professional Land Surveyor positions from the Board, leaving the Board with nine voting members, consisting of two Licensed State Land Surveyors, three Registered Professional Land Surveyors, three public members, and the Land Commissioner, who serves as an ex officio member.

Fiscal Implication Summary _____

This legislation will not have a fiscal impact to the State.

