

EXECUTIVE SUMMARY

Texas Board of Professional Geoscientists

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As discussed within this report, Sunset staff recommends abolishing the Texas Board of Professional Geoscientists. This recommendation in no way diminishes the importance of geoscience; instead, it speaks to an assessment of the need for the state to regulate practitioners of geoscience. The entire purpose of Sunset is to question the need for and effectiveness of state regulation and the agencies that perform this regulation.

The Sunset Act specifically requires this evaluation as well as an even more rigorous evaluation of occupational licensing agencies and whether or not they serve a meaningful public interest through the least restrictive form of regulation necessary to protect the public. When an occupational licensing agency cannot be justified by a clear threat to the health, safety, and welfare of the public, Sunset staff has a duty to report this finding to its Commission and the Legislature in an effort to reduce state regulation and focus state resources where public protection is paramount.

*State regulation of
geoscience is unnecessary
to protect the public.*

In its first and only review of the board, Sunset staff found that professional geoscientists provide valuable assessments and research related to groundwater, subsurface concerns, and other areas. However, a historical lack of meaningful enforcement action, no measurable impact on public protection, and more direct oversight of geoscientists' work provided by other state agencies' render ongoing state regulation of geoscientists unnecessary to protect the public.

The practice of geology and geoscience was unregulated by the state until 2001 when the Legislature created the board. History shows no catastrophic event or public harm as the impetus for creating this regulation, nor any documented demand from the public or consumer protection groups for it, and Sunset staff found no examples or evidence of significant public harm directly attributable to unqualified or unlicensed geoscientists, either before or after the board's creation.

The need for this regulation is even further diminished by the fact that effectively half of the practicing geoscientists in Texas are exempt from regulation, essentially making the professional geoscientist license optional for many current licensees and practitioners. Additionally, the board grandfathered

about 78 percent of current licensees into the profession without licensees passing the rigorous exam requirements to obtain a license, undermining the promise of competence that typically comes from licensing agencies.

While the board is generally well managed, it struggles to remain relevant, especially with regard to enforcement. The board itself initiates 89 percent of complaints, mostly for low-risk, administrative violations. The board has never received a complaint that posed significant harm or risk to the public even though it has worked with other agencies and political subdivisions to ensure they funnel any potential violations of the Texas Geoscience Practice Act and Code of Professional Ethics — anything pertaining to the practice of geoscience in Texas — to the board. However, the board rarely receives complaint referrals from other entities, and has never received any from two of the largest state agencies it partners with, the Railroad Commission of Texas and Texas Commission on Environmental Quality. Moreover, these two agencies provide more regular and direct oversight of geoscience work than the board by providing technical reviews of permits applications, monitoring reports, and remediation, which will not change if the board is abolished.

The following material highlights Sunset staff’s key recommendation for the Texas Board of Professional Geoscientists.

Issue and Recommendation

Issue 1

State Regulation of Geoscientists Provides No Measurable Public Benefit and Should Be Discontinued.

Key Recommendation

- Abolish the Texas Board of Professional Geoscientists and repeal the Texas Geoscience Practice Act.

Fiscal Implication Summary

Overall, the recommendation to abolish the Texas Board of Professional Geoscientists would result in an estimated negative impact to the state of about \$265,641 in fiscal year 2020 and a reduction of 5.5 employees. Abolishing the board would result in a loss of any excess revenue collected by the board that is currently deposited into the General Revenue Fund. The board collected \$944,422 in fees and enforcement penalties for fiscal year 2017 and spent \$567,083 on operations that same year, plus \$142,958 in employee benefits and indirect costs, resulting in excess revenue of \$234,381.

Additionally, on September 1, 2019, the board would no longer exist and practicing geoscientists would no longer pay licensing or registration fees, leaving the board without a steady funding stream. The board would need a small amount of appropriations during the wind-down period to process any remaining transactions or requests received before September 1, 2019. The board would only operate for five months into fiscal year 2020 and would only need appropriations of \$31,260 for salary and benefits for one administrative staff. The table shows the overall impact of this recommendation.

Texas Board of Professional Geoscientists

Fiscal Year	Cost to the General Revenue Fund	Loss to General Revenue Fund	Change in Number of FTEs From FY 2019
2020	\$31,260	\$234,381	-5.5
2021	\$0	\$234,381	-6.5
2022	\$0	\$234,381	-6.5
2023	\$0	\$234,381	-6.5
2024	\$0	\$234,381	-6.5

