

# EXECUTIVE SUMMARY

## *Texas Board of Professional Land Surveying*

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Land surveying has a lengthy and storied history in Texas dating back to 18th century Spanish land grants. Land surveyors continue to play an important role in the state — especially during Texas’ current real estate boom with unprecedented new construction — measuring and documenting property boundaries for legal transfers from one owner to another. Inaccurate work by land surveyors can result in costly legal battles to determine property boundaries and potentially take away a person’s right to property legally paid for. Since 1979, the Texas Board of Professional Land Surveying has sought to protect individuals from financial harm by ensuring only competent surveyors practice in Texas and sanctioning those who violate the law or board rules.

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*As currently structured, the agency cannot effectively regulate land surveyors.*

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Since its last Sunset review in 2003, this small agency has increasingly struggled to carry out several key functions. Alarming performance data caused Sunset staff to focus on the agency’s enforcement program early in the review and ultimately conclude the agency’s enforcement processes are broken. Complaint resolution timeframes have increased every year since 2012 and are now unacceptably long — an average of more than two years — ultimately putting consumers at risk while the subject of a complaint potentially continues to perform poor land surveying work. The agency has more than 170 open cases, some more than six years old, which is unfair to licensees, particularly if open complaints are unfounded. Additionally, the lack of current complaint investigation policies and procedures and case management objectives results in investigators handling cases differently, calling the fairness of the process into question.

Throughout the review, the agency was also unable to provide consistent accounting information and standard licensing and enforcement data, limiting Sunset staff’s, as well as the board’s and agency’s, ability to analyze and evaluate operations to make needed improvements. The agency attributes its inability to provide this basic information to the lack of functionality in its data systems and the high costs to improve them. However, the agency does not use basic functions available in its current systems to run on-demand reports that would help evaluate and improve its operations at no additional cost. Furthermore, the agency has knowingly lapsed over \$423,000 since fiscal year 2012, despite a clear need to improve its programs and functions.

While the agency's dedicated staff work hard, these significant and ongoing issues remain unresolved. The board and agency's modest attempts to make improvements have not worked, and inaction in other areas led Sunset staff to determine these problems cannot be fixed within the current organization. Sunset staff recommends transferring the regulation of land surveyors to the Texas Board of Professional Engineers, which could more effectively regulate this important profession with its well-developed complaint and investigation procedures. The following material summarizes Sunset staff recommendations on the Texas Board of Professional Land Surveying.

## Issues and Recommendations

### *Issue 1*

#### **The Texas Board of Professional Engineers Could More Effectively Regulate Land Surveying.**

While Texas has a clear, ongoing need to regulate the practice of land surveying, the Texas Board of Professional Land Surveying is failing to meet its fundamental duties and responsibilities to protect consumers, taking an average of more than two years to resolve a complaint and struggling with a backlog of cases, some dating as far back as 2012. The agency's performance data is inconsistent and unreliable, preventing it and the board from fully assessing and improving agency performance, and the agency has not managed its budget well, lapsing funds that could have been used to help resolve some of these serious and ongoing challenges.

In response to these significant, long-standing problems the board and agency have been unable to address, Sunset staff determined regulation of land surveying would be more effective in a consolidated regulatory structure. The Texas Board of Professional Engineers could more successfully license and regulate land surveyors together with engineers, a regulatory structure more states use than Texas' stand-alone approach. Because the Texas Board of Professional Engineers is a self-directed semi-independent (SDSI) agency, the newly created Texas Board of Professional Engineers and Land Surveyors would be as well.

#### **Key Recommendation**

- Consolidate the Texas Board of Professional Land Surveying with the Texas Board of Professional Engineers, creating the Texas Board of Professional Engineers and Land Surveyors.

### *Issue 2*

#### **Key Elements of the Agency's Licensing and Enforcement Functions Do Not Conform to Common Standards.**

In reviewing the agency's licensing and enforcement functions, the review found certain processes do not match model standards or common practices, and lack documented policies, inhibiting the agency's ability to best protect the public and treat licensees fairly and consistently. Specifically, several licensure requirements are overly restrictive, such as requiring character, reputation, and fitness evaluations — which are not authorized by law — and an unnecessary requirement to be a resident of Texas. Additionally, the agency's excessive involvement in the exam development and administration processes is costly and time consuming, and limits applicants' access to fair, consistent exams.

## Key Recommendations

- Remove the residency requirement for licensed state land surveyors from statute.
- Clarify statute to realign the agency's complaint intake and investigation procedures with model standards.
- Replace the board's examination advisory committees with general statutory authority to establish advisory committees, and authorize the agency to outsource its exams.
- Direct the board to conduct a comprehensive analysis evaluating adoption of the nationally accepted practice exam and a separate, corresponding jurisprudence exam.

## Fiscal Implication Summary

Overall, the recommendations in this report would result in an estimated positive fiscal impact to the state of about \$183,888 over the next five years. The recommendation to abolish the Texas Board of Professional Land Surveying and transfer regulation of the profession to the newly created Texas Board of Professional Engineers and Land Surveyors would result in an estimated annual positive impact to the state of about \$45,972 each year beginning in fiscal year 2021, and a reduction of two staff positions.

In fiscal year 2017, the agency reported \$563,220 in revenue and \$439,185 in expenditures, resulting in a deposit of \$124,035 in excess revenue to the General Revenue Fund. Land surveying regulation would no longer fall under the appropriations process beginning fiscal year 2021, as a result of the newly created board also being an SDSI agency, so any excess funding would no longer be deposited to general revenue. However, eliminating the land surveying board executive director and chief financial officer staff positions would result in annual savings of \$170,007 in salary and benefits to general revenue.

The estimated annual operating costs for the new Texas Board of Professional Engineers and Land Surveyors to regulate land surveying is approximately \$260,227. As an SDSI agency, the new board would maintain the flexibility to set licensing fees necessary to cover the costs of its operations.

### ***Texas Board of Professional Land Surveying***

<b>Fiscal Year</b>	<b>Savings to the General Revenue Fund</b>	<b>Loss to the General Revenue Fund</b>	<b>Change in Number of FTEs From FY 2019</b>
2020	\$0	\$0	0
2021	\$170,007	\$124,035	-2
2022	\$170,007	\$124,035	-2
2023	\$170,007	\$124,035	-2
2024	\$170,007	\$124,035	-2

