

SUBJECT: Creating the Texas Board of Professional Geoscientists

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Wilson, Yarbrough, Flores, Goolsby, Haggerty, D. Jones, Moreno, Wise
0 nays
1 absent — A. Reyna

SENATE VOTE: On final passage, February 22 — voice vote

WITNESSES: For — *Registered but did not testify:* Mark J. Baker, Kelly Krenz Doe, and Paul Heidgerd, Texas Association of Professional Geoscientists; Bill Clayton; W. Kevin Coleman, Association of Engineering Geologists; Bruce K. Darling, John K. Mikess, and James Shotwell, American Institute of Professional Geologists; Rick Ericksen, American Association of Petroleum Geologists; Dwight “Clint” Moore; David G. Rensink, Houston Geological Society
Against — None

DIGEST: SB 405 would create the Texas Board of Professional Geoscientists to regulate the practice of geoscience. The bill would define “geoscience” as the science of the earth and its origin and history, the investigation of the earth’s environment and its constituent soils, rocks, minerals, fossil fuels, solids, and fluids, and the study of natural and introduced agents, forces, and processes that cause changes in and on the earth.

A person who engaged in the public practice of geoscience, used the title “licensed professional geoscientist” or “P.G.,” or had responsible charge of a government geoscientific report required under law would have to obtain a geoscientist license. A corporation or firm engaged in the public practice of geoscience would have to employ a licensed geoscientist with supervisory control over the geoscientific work. Exemptions to the license requirement would include:

- ! work performed under the supervision of a licensed geoscientist;
- ! work performed as part of the duties of an officer or employee of the United States;
- ! energy resource or mineral exploration performed exclusively for private industry;
- ! research conducted by academic institutions, governmental bodies, research institutions, or for-profit organizations not required under law;
- ! teaching geoscience;
- ! other physical or natural science work that does not include the public practice of geoscience;
- ! work performed by an archeologist, geoscientist, or other person conducting a stratigraphic or historical geological investigation for archeological purposes;
- ! preparation or presentation of information for an administrative or judicial tribunal or hearing, or evaluation of that information; and
- ! on-site evaluations of sewage facilities by certified evaluators.

To be eligible for a license, a person would have to meet specific education and work experience requirements, including graduating from a four-year course of study, having at least five years qualifying work experience, and passing a board examination. The board could waive any of these requirements by a two-thirds vote of the entire board.

The board could impose disciplinary actions, including reprimanding an individual or firm, requiring participation in a peer review program, requiring remedial education or training, refusing to issue or renew a license, suspending a license, or permanently revoking a license, for a person or firm who violated provisions of the act. The board also could impose an administrative penalty of up to \$100 per day for each violation. A person would be entitled to a hearing before the board could suspend or revoke the person's license and would have the right to a judicial appeal of the imposition of a financial penalty.

SB 405 would not authorize licensed geoscientists to practice professional surveying, drilling, installing, or engineering. A qualified and registered surveyor or licensed driller or installer would not need a geoscientist license to practice those professions, provided that the professional confined his or her practice to activities authorized under the Professional Land Surveying

Practices Act (Art. 5282c, V.T.C.S.) and Water Code, chapters 32 and 33, respectively. A licensed engineer would not need a geoscientist license to perform work that was both engineering and geoscience.

The board would have to cooperate with the Texas Board of Professional Engineers and the licensing and regulation commission regarding conflicting provisions between this bill and the acts regulating the professions of surveying, drilling, installing, and engineering.

The board would comprise nine members appointed by the governor with the advice and consent of the Senate. Six members would have to be licensed geoscientists and three members would have to be public representatives. Board members would serve staggered six-year terms and could not serve more than two consecutive full terms. The board would have to elect its officers biennially and would have to meet at least twice a year. It would have a staff of about 15 full-time equivalent employees. Administration costs would be covered by licensing fees set by the board.

SB 405 also would include standard state board provisions regarding conflicts of interest, nondiscriminatory appointments, grounds for removal of board members, standards of conduct, board member training, separation of policymaking from administration, equal employment opportunity, and adoption of an intra-agency career ladder program. Standard requirements for board membership and financial reporting also would apply.

The bill would include standard provisions authorizing the board to adopt and enforce rules, establish license and examination criteria, set reasonable fees for application, examination, licensure, and renewal of a license, adopt a code of conduct binding on all license holders, investigate complaints, and allow public participation. It also would:

- ! authorize the board to develop uniform standards with boards in other states or appropriate organizations or societies;
- ! require the board to maintain a list of licensed geoscientists and provide a copy of the list upon request and payment of a reasonable fee;
- ! require the board to maintain a list of governmental entities with similar licensing requirements and with whom the state has reciprocity agreements;

- ! authorize board members to be reimbursed for travel expenses;
- ! add definitions relating to geoscience and geoscientists; and
- ! require the board to undergo sunset review in 2013.

This bill would take effect September 1, 2001, but the license requirement and penalties for violations would not take effect until September 1, 2003. The governor would have to make initial appointments to the board before November 1, 2001. The board would have to hold its first meeting before January 1, 2002, and would have to adopt rules by September 1, 2003.

**SUPPORTERS
SAY:**

SB 405 would ensure that people conducting geoscience work were qualified to perform this work by applying standard procedures for occupational licensing to the profession, akin to those required for other professionals, such as engineers.

Oversight of this occupation is particularly appropriate considering the direct impact that geoscience work often has on the environment and public health and safety. For example, geoscientists may prepare cleanup plans for spills of hazardous materials or provide protective measures for groundwater flow, and they may consult with engineers on a wide variety of construction projects. Currently, though, no regulations govern the practice of geoscience, and unqualified people have been practicing geoscience in Texas, potentially endangering the community. Twenty-eight states already regulate the public practice of geology, according to the Association of State Boards of Geology. Texas also should set minimum standards for this profession and ensure that those who practice it are qualified.

The bill would impose an administrative penalty of \$100 per violation per day to deter violations of the bill's provisions. This penalty would be less than that imposed on licensed engineers because the scope of geoscience is less clear than that of engineering, and many people are still uncertain about what is geoscience and whether they would be regulated under this bill. While it is important to regulate this occupation now, keeping the penalties low initially would allow a period of transition during which people whose activities required them to be licensed could become licensed and learn about the new regulations, without receiving huge penalties for the unintentional violations that can occur when a new set of regulations is imposed.

OPPONENTS
SAY:

The bill would provide only token penalties for violating its provisions, and these penalties would have little deterrent effect. Because unsafe geoscience work can endanger the community, geoscientists should be subject to the same penalties as engineers, now \$3,000 per violation per day, to ensure compliance with the act.

NOTES:

The companion bill, HB 1012 by Goolsby, has been referred to the House Licensing and Administrative Procedures Committee.

A similar bill in the 76th Legislature, HB 34 by Goolsby, was reported favorably by the House Licensing and Administrative Procedures Committee and laid on the table subject to call after the second reading. The companion bill, SB 129 by Brown, passed the Senate, but died on the House General State Calendar late in the session.