

SUBJECT: Expanding definition of professional services to include geoscience

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Solomons, Menendez, Cook, Craddick, Farabee, Gallego, Harless, Jones, Lucio, Maldonado, Oliveira, Swinford, S. Turner

0 nays

2 absent — Geren, Hilderbran

WITNESSES: For — Kevin Almaguer; Kevin W. Coleman, Association of Environmental and Engineering Geologists; Matthew Cowan, Texas Association of Professional Geoscientist and Houston Geological Society; Michael Davis, Texas Chapter of the American Society of Landscape Architects; (*Registered, but did not testify*: John Berry; Dean McWilliams, Texas Chapter - American Association of Landscape Architects)

Against — None

On — Barbara Roeling, Board of Professional Geoscientists; (*Registered, but did not testify*: Charles Horton, Texas Board of Professional Geoscientists)

BACKGROUND: Government Code, ch. 2254, the Texas Professional Services Procurement Act, allows a governmental entity to contract with providers of certain professional services without having to comply with the more stringent procurement requirements for consulting services. A governmental entity may contract with a professional services provider for a fair and reasonable price on the basis of the provider's demonstrated competence and qualifications. "Professional services" are services performed by a licensed or registered person within the scope of a particular practice, as defined by state law, including:

- accounting;
- architecture;
- landscape architecture;
- land surveying;
- medicine;

- optometry;
- professional engineering;
- real estate appraising; and
- professional nursing.

Specialized procurement procedures are required for contracts for the professional services of architects, engineers, and surveyors. A governmental entity must first select the most highly qualified provider and attempt to negotiate a fair and reasonable contract price. If a fair price cannot be reached, the governmental entity must formally end negotiations, select the next most highly qualified provider, and begin the negotiation again. The process continues until a contract is entered into.

**DIGEST:**

CSHB 2820 would amend the Texas Professional Services Procurement Act by expanding the definition of “professional services” to include the practice of professional geoscience by a professional geoscientist. The bill also would also add geoscientists and landscape architects to the list of professional service providers for which a governmental entity would have to first select the most highly qualified provider and attempt to negotiate a fair and reasonable price before selecting the next most highly qualified provider.

This bill would take effect September 1, 2009, and would apply only to procurement of professional services by geoscientists and landscape architects on or after that date.

**SUPPORTERS  
SAY:**

CSHB 2820 would strengthen public health and safety protections by allowing governmental entities to procure the services of licensed geoscientists directly in the same manner as other recognized professional services. Under current procurement law, a governmental entity cannot contract directly for geoscientific services except through the consulting procurement process or indirectly through a provider of general engineering services. While engineering firms can and often do perform geoscientific work—sometimes by employing or contracting with geoscientists themselves—professional geoscientists possess more specialized skills uniquely suited to identifying particular kinds of site problems in construction and other works projects. By including geoscientific services among the list of professional services recognized by the state, CSHB 2820 would create greater parity by giving geoscientists the opportunity to fully and fairly compete with engineers for geoscientific-related work.

CSHB 2820 also would reduce the costs of public projects and help prevent cost overruns by increasing geoscientists' involvement in all stages of public works projects. The nature of geoscientists' work enables them to identify potential problems at a project's early stage, thereby allowing the project's managers to plan accordingly and prevent the need for potentially expensive mid-project alterations.

CSHB 2820 would in no way grant a privilege to geoscientists over engineers. Because of the complementary nature of their services, geoscientists and engineers often must work closely together on projects. CSHB 2890 would not alter this but simply would standardize the Professional Services Act to treat engineering and geoscientific work equally.

Finally, CSHB 2820 would eliminate separate treatment of professional landscape architects from other architects by applying a consistent procurement standard to all professional architectural services. Because landscape architects receive similar training and perform services that frequently overlap with those of other architects, they should be treated equally in the procurement process.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute differs from the bill as filed by adding professional landscape architect services to the list of professional services for which specialized procurement procedures would be required, while the original bill would have added only professional geoscientist services.

The companion bill, SB 941 by Wentworth, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 2 and was left pending by the House State Affairs Committee on May 5.