

- SUBJECT:** Continuing the regulation of land surveyors
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 8 ayes — T. King, Goldman, Harless, Herrero, K. King, Kuempel, Paddie, S. Thompson
- 0 nays
- 3 absent — Geren, Guillen, Hernandez
- WITNESSES:** For — John Barnard, Texas Society of Professional Surveyors; (*Registered, but did not testify*: Deborah Kyle and Mark Hanna, Texas Society of Professional Surveyors)
- Against — Bill Merten, Texas Board of Professional Land Surveying; Garey Gilley; (*Registered, but did not testify*: Vance Ginn, Texas Public Policy Foundation)
- On — Darren McDivitt, Sunset Advisory Commission; Mark Neugebauer, Texas General Land Office; Michael McCloskey; (*Registered, but did not testify*: Lance Kinney, Texas Board of Professional Engineers; LeAnn Catron, Texas Board of Professional Land Surveying)
- BACKGROUND:** The Legislature created the Board of Examiners of Licensed State Land Surveyors in 1919 to regulate surveyors who worked on state land and land grants. In 1955, the Legislature created the State Board of Registration for Public Surveyors to regulate private surveyors. In 1979, the two agencies were merged into the Texas Board of Professional Land Surveying. Occupations Code ch. 1071 establishes the board and its duties and powers to license and regulate surveyors and surveying firms. Its responsibilities include:
- developing and administering exams for surveyors;
 - licensing and registering surveyors and surveying firms; and

- investigating and resolving complaints against surveyors.

Governing structure. The nine-member board consists of the commissioner of the General Land Office (GLO) or a designee, three registered professional land surveyors, two licensed state land surveyors, and three public members. The land surveyors and public members are appointed by the governor and confirmed by the Senate and serve staggered six-year terms.

Funding. The board generates revenue through licensing fees, sales of continuing education products, and public information copy requests. In fiscal 2017 the agency reported \$563,220 in revenue and spent \$439,185 with the difference of \$124,035 deposited to the general revenue fund.

Staffing. In fiscal 2017, the agency had seven staff, including two part-time investigators.

The Texas Board of Professional Land Surveying previously underwent Sunset review in 2003. It would be discontinued on September 1, 2019, unless continued in statute.

Occupations Code ch. 1001 establishes the Texas Board of Professional Engineers and its duties and powers to license and regulate engineers and engineering firms.

DIGEST:

CSHB 1523 would consolidate the functions of the Texas Board of Professional Land Surveying and the Texas Board of Professional Engineers into the Texas Board of Professional Engineers and Land Surveyors (TBPELS). The bill would abolish the Board of Professional Land Surveyors on September 1, 2020, and transfer its duties, obligations, powers, and property, including unexpended funds, to TBPELS.

Board. The nine-member board would consist of five engineers, one land surveyor, and three members who represent the public. The land surveyor member of the board would be required to be either a practicing licensed state land surveyor or a registered professional land surveyor. The land

surveyor member would be prohibited from being licensed as an engineer.

The commissioner of the General Land Office (GLO) or a GLO employee who was a licensed state land surveyor designated by the commissioner as director of surveying would serve as an ex officio, nonvoting board member. The commissioner of the GLO would not be entitled to a per diem for engaging in board business.

The bill would require the board to appoint an advisory committee to provide advice and recommendations on matters relevant to professional engineering or land surveying.

Licensing. CSHB 1523 would require TBPELS to provide that certificates of registration or licenses be valid for a term of one or two years and for the renewal of certificates or licenses.

Fees. The bill would establish registration, certification, and renewal fees for land surveyors. It would abolish late renewal fees, engineer-in-training certificate fees, and registration fees for engineering firms.

Residency requirement. The bill would repeal the state residency requirement as a qualification for becoming a licensed state land surveyor.

Testing. CSHB 1523 would authorize the board to adopt, recognize, develop, or contract for an exam pertaining to the engineering or surveying professions, including exam administration.

Otherwise, it would take effect September 1, 2019.

SUPPORTERS
SAY:

CSHB 1523 would address several issues with the management of the Texas Board of Professional Land Surveying identified by Sunset staff by transferring its powers and responsibilities to the Texas Board of Professional Engineers to create the Texas Board of Professional Engineers and Land Surveyors (TBPELS).

Regulatory burden. The Texas Board of Professional Engineers is well

suited to take on the regulation of land surveyors. It already licenses and registers more than 88,000 people and nearly 11,000 firms, and the bill would add about 3,300 individual land surveyors and 1,500 surveying firms to those numbers, which would not be an onerous regulatory burden. Nearly half of all states regulate surveyors and engineers under one agency. Consolidating the regulation of engineering and surveying under a single agency also would make sense, as civil engineers and surveyors often work together.

TBPELS would be permitted to create advisory committees that could preserve access to specialized knowledge which, in conjunction with the General Land Office's ex-officio non-voting board seat, could ensure that the merged agency was adequately informed about Texas' unique land management tradition and history.

It is unnecessary to have both a registered professional land surveyor and a licensed state land surveyor on the board because the latter must also hold a registered professional land surveyor license. There are around 60 licensed state land surveyors in Texas, making an additional board seat for this kind of license unnecessary.

Enforcement. The Texas Board of Professional Land Surveying's enforcement processes are broken, with more than 170 open cases, complaint processes lasting an average of two years, and inconsistent investigations and case resolutions. The agency's two part-time investigators operate private land-surveying businesses, raising questions about potential conflicts of interest. In contrast, the Texas Board of Professional Engineers has well developed complaint and investigation procedures that have been found to effectively ensure compliance with statute.

Exams. CSHB 1523 would improve the efficiency of the licensing process by authorizing TBPELS to outsource its exams. Currently, the Texas Board of Professional Land Surveying develops registered professional land surveyor and reciprocal written exams itself using an elaborate, months-long process, and it administers its paper-based exams

only twice a year in Austin, creating a burden for applicants. The percent of applicants that pass each registered professional land surveyor exam varies widely from year to year, raising questions about its consistency and fairness.

Residency requirement. The bill would abolish the requirement that a licensed state land surveyor be a resident of Texas. Residency in the state is not a prerequisite for the ability to understand and perform the duties of a licensed state land surveyor.

OPPONENTS
SAY:

CSHB 1523 could undermine both the engineering and surveying professions by merging their licensing and regulation under the supervision of one board. The Texas Board of Professional Land Surveying has developed a comprehensive corrective plan to remedy issues identified by Sunset staff, and concerns about mismanagement of the agency could be addressed with a change in leadership.

Regulatory burden. Surveying and engineering are distinct professions, and the supervision of both would suffer under a joint board. The Texas Board of Professional Engineers lacks the extensive land surveying knowledge, experience, and qualifications necessary to effectively regulate land surveying in Texas. With only one licensed state land surveyor on the board, TBPELS would be less effective at regulating land surveyors than the current Texas Board of Professional Land Surveying. One surveyor is insufficient to provide the specialized knowledge necessary and would unfairly diminish the importance of the land surveying profession.

Reducing the General Land Office representative to a nonvoting, ex officio member unfairly diminishes the office's role in regulating the surveying profession.

Texas has a unique land management tradition starting before annexation that would be best supervised by an independent agency. Surveying requires an understanding of Texas case law and history that would require engineers to undergo specialized training before they were

prepared to supervise the surveying profession.

Enforcement. The Texas Board of Professional Land Surveying's investigatory procedures are nearly identical to those established by the National Council of Examiners for Engineers and Surveyors. The complaints the agency handles are technical in nature and require time to review and investigate. The agency makes clear to investigators, upon their hiring, of the importance of keeping a transparent, fair and unbiased work ethic when handling complaints.

The agency is working to address its complaint backlog by bringing in former board members as volunteers to review complaints.

Exams. Permitting TBPELS to contract out examinations could degrade the quality of the exams. TBPLS-developed exams have been cultivated to test understanding of the unique Texas land system. A contractor would be unqualified to produce an exam that tests for that understanding.

Residency requirement. The state residency requirement for licensed state land surveyors should be retained because Texas residents would be more invested in providing quality service. Occupations Code ch. 1071 sec. 355 states that a licensed state land surveyor is an agent of the state when acting in that official capacity; state agents thus should be Texas residents.

OTHER
OPPONENTS
SAY:

Because registered professional land surveyors work with private land and licensed state land surveyors work with state land, each of which requires different expertise, CSHB 1523 should require one of each on the TBPELS board, rather than just a licensed state land surveyor.

NOTES:

According to the Legislative Budget Board, CSHB 1523 would have an estimated negative impact of \$156,892 on general revenue related funds through the biennium ending August 31, 2021.