

BILL ANALYSIS

Senate Research Center
83R1573 NAJ-D

S.B. 138
By: Zaffirini
Business & Commerce
2/1/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Board of Professional Geoscientists (TBPG) is responsible for licensing geologists, geophysicists, soil scientists, and geoscience firms; ensuring compliance with the Texas Geoscience Practice Act; and conducting outreach activities. Included in its duties, the TBPG receives, investigates, and determines disciplinary action for complaints brought against licensed geoscientists. Current statute complicates the complaint process with unnecessary obstacles and needs to be streamlined. Additionally, statute does not address the responsibility of other state employees to engage in the TBPG's complaint process.

The bill amends statute to clarify that TBPG should accept a complaint regardless of whether it is notarized; require TBPG to maintain information about filing a complaint against a licensed geoscientist and allow complaints to be submitted on its website; require state agencies to notify TBPG of potential violations of the Texas Geoscience Practice Act; and require TBPG to collaborate with appropriate agencies to train state employees involved in projects requiring the services of a licensed geoscientist on the process of filing a complaint with TBPG. This bill is a product of recommendations provided in a Legislative Budget Board government efficiency and effectiveness report.

As proposed, S.B. 138 amends current law relating to procedures for filing complaints with, and providing notice of certain violations to, the Texas Board of Professional Geoscientists.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Professional Geoscientists in SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1002.201, Occupations Code, as follows:

- (a) Creates this subsection from existing text. Makes no further changes.
- (b) Requires the Texas Board of Professional Geoscientists (TBPG) to maintain on TBPG's Internet website information regarding the procedure for filing a complaint with TBPG, and a means by which a person may electronically file a complaint with TBPG.

SECTION 2. Amends Section 1002.202, Occupations Code, by amending Subsection (b) and adding Subsection (d-1), as follows:

- (b) Requires that a complaint from a member of the public be in writing, sworn to by the person making the complaint, and filed with the secretary-treasurer or electronically through TBPG's Internet website.
- (d-1) Requires TBPG to accept a complaint regardless of whether the complaint is notarized.

SECTION 3. Amends Subchapter E, Chapter 1002, Occupations Code, by adding Sections 1002.206 and 1002.207, as follows:

Sec. 1002.206. COMPLAINT EDUCATION. (a) Provides that, in this section, "state agency" has the meaning assigned by Section 57.001 (Definitions).

(b) Requires TBPG to work with each state agency that uses the services of a person licensed under this chapter and other appropriate state agencies as determined by TBPG, including a state agency with which TBPG has entered into a memorandum of understanding that addresses the coordination of activities or complaints, to educate the agency's employees regarding the procedures by which complaints are filed with and resolved by TBPG.

Sec. 1002.207. DUTY OF STATE AGENCY TO REPORT POTENTIAL VIOLATION. (a) Provides that, in this section, "state agency" has the meaning assigned by Section 57.001.

(b) Requires a state agency that becomes aware of a potential violation of this chapter or a rule adopted under this chapter to forward any information relating to the potential violation and any subsequently obtained information to TBPG.

(c) Provides that information forwarded by a state agency under this section that is privileged or confidential remains privileged or confidential following receipt by TBPG. Provides that the privilege or confidentiality extends to any TBPG communication concerning the information forwarded, regardless of the form, manner, or content of the communication.

(d) Provides that the forwarding of privileged or confidential information by a state agency does not waive a privilege in or create an exception to the confidentiality of the information.

(e) Provides that a state agency's provision of information or failure to provide information under this section does not give rise to a cause of action against the agency.

SECTION 4. Requires TBPG, not later than December 1, 2013, to adopt rules necessary to implement Sections 1002.201 and 1002.202, Occupations Code, as amended by this Act, and Sections 1002.206 and 1002.207, Occupations Code, as added by this Act.

SECTION 5. Effective date: September 1, 2013.