

1-1 By: Shapleigh S.B. No. 260
1-2 (In the Senate - Filed January 28, 2003; February 5, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 24, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 March 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 260 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to continuation and functions of the Texas Board of
1-11 Professional Land Surveying.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1071.003, Occupations Code, is amended
1-14 to read as follows:

1-15 Sec. 1071.003. APPLICATION OF SUNSET ACT. The Texas Board
1-16 of Professional Land Surveying is subject to Chapter 325,
1-17 Government Code (Texas Sunset Act). Unless continued in existence
1-18 as provided by that chapter, the board is abolished and this chapter
1-19 expires September 1, 2015 ~~[2003]~~.

1-20 SECTION 2. Subsections (a) and (g), Section 1071.051,
1-21 Occupations Code, are amended to read as follows:

1-22 (a) The Texas Board of Professional Land Surveying consists
1-23 of nine ~~[10]~~ members as follows:

1-24 (1) the commissioner;

1-25 (2) two licensed state land surveyor members actively
1-26 engaged in the practice of state land surveying for not less than
1-27 the five years preceding appointment;

1-28 (3) three ~~[four]~~ registered professional land
1-29 surveyor members actively engaged in the practice of professional
1-30 surveying in this state for not less than the five years preceding
1-31 appointment; and

1-32 (4) three members who represent the public.

1-33 (g) Appointments to the board shall be made without regard
1-34 to the race, color, disability, ~~[creed]~~ sex, religion, age, or
1-35 national origin of the appointee.

1-36 SECTION 3. Section 1071.053, Occupations Code, is amended
1-37 to read as follows:

1-38 Sec. 1071.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

1-39 (a) In this section, "Texas trade association" means a
1-40 ~~[nonprofit]~~ cooperative~~[r]~~ and voluntarily joined statewide
1-41 association of business or professional competitors in this state
1-42 designed to assist its members and its industry or profession in
1-43 dealing with mutual business or professional problems and in
1-44 promoting their common interest.

1-45 (b) A person may not be a member of the board and may not be
1-46 an employee of the board employed in a "bona fide executive,
1-47 administrative, or professional capacity," as that phrase is used
1-48 for purposes of establishing an exemption to the overtime
1-49 provisions of the federal Fair Labor Standards Act of 1938 (29
1-50 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

1-51 (1) the person is an [An] officer, employee, or paid
1-52 consultant of a Texas trade association in the field of surveying;
1-53 or

1-54 (2) the person's spouse is [may not be a board member
1-55 or an employee of the board who is exempt from the state's position
1-56 classification plan or is compensated at or above the amount
1-57 prescribed by the General Appropriations Act for step 1, salary
1-58 group A17, of the position classification salary schedule.

1-59 ~~[(c) A person who is the spouse of]~~ an officer, manager, or
1-60 paid consultant of a Texas trade association in the field of
1-61 surveying ~~[may not be a board member or an employee of the board who~~
1-62 ~~is exempt from the state's position classification plan or is~~
1-63 ~~compensated at or above the amount prescribed by the General~~

2-1 ~~Appropriations Act for step 1, salary group A17, of the position~~
2-2 ~~classification salary schedule].~~

2-3 (c) [~~(d)~~] A person may not be [~~serve as~~] a member of the
2-4 board or act as the general counsel to the board if the person is
2-5 required to register as a lobbyist under Chapter 305, Government
2-6 Code, because of the person's activities for compensation on behalf
2-7 of a profession related to the operation of the board.

2-8 SECTION 4. Subsection (a), Section 1071.054, Occupations
2-9 Code, is amended to read as follows:

2-10 (a) Members of the board appointed by the governor serve
2-11 staggered six-year terms, with the terms of approximately one-third
2-12 of those members expiring on January 31 of each odd-numbered year.

2-13 SECTION 5. Subsections (a) and (c), Section 1071.056,
2-14 Occupations Code, are amended to read as follows:

2-15 (a) It is a ground for removal from the board that a member:

2-16 (1) does not have at the time of taking office
2-17 [~~appointment~~] the qualifications required by Sections 1071.051 and
2-18 1071.052;

2-19 (2) does not maintain during service on the board the
2-20 qualifications required by Sections 1071.051 and 1071.052;

2-21 (3) is ineligible for membership under Section
2-22 1071.051, 1071.052, or [~~violates a prohibition established by~~
2-23 ~~Section~~] 1071.053;

2-24 (4) cannot, because of illness or disability,
2-25 discharge the member's duties for a substantial part of the member's
2-26 term; or

2-27 (5) is absent from more than half of the regularly
2-28 scheduled board meetings that the member is eligible to attend
2-29 during a calendar year without an excuse approved [~~unless the~~
2-30 ~~absence is excused~~] by majority vote of the board.

2-31 (c) If the executive director has knowledge that a potential
2-32 ground for removal exists, the executive director shall notify the
2-33 presiding officer of the board of the potential ground. The
2-34 presiding officer shall then notify the governor and the attorney
2-35 general that a potential ground for removal exists. If the
2-36 potential ground for removal involves the presiding officer, the
2-37 executive director shall notify the next highest ranking officer of
2-38 the board, who shall then notify the governor and the attorney
2-39 general that a potential ground for removal exists.

2-40 SECTION 6. Subchapter B, Chapter 1071, Occupations Code, is
2-41 amended by adding Section 1071.059 to read as follows:

2-42 Sec. 1071.059. TRAINING. (a) A person who is appointed to
2-43 and qualifies for office as a member of the board may not vote,
2-44 deliberate, or be counted as a member in attendance at a meeting of
2-45 the board until the person completes a training program that
2-46 complies with this section.

2-47 (b) The training program must provide the person with
2-48 information regarding:

2-49 (1) the legislation that created the board;
2-50 (2) the programs operated by the board;
2-51 (3) the role and functions of the board;
2-52 (4) the rules of the board, with an emphasis on the
2-53 rules that relate to disciplinary and investigatory authority;

2-54 (5) the current budget for the board;
2-55 (6) the results of the most recent formal audit of the
2-56 board;

2-57 (7) the requirements of:

2-58 (A) the open meetings law, Chapter 551,
2-59 Government Code;

2-60 (B) the public information law, Chapter 552,
2-61 Government Code;

2-62 (C) the administrative procedure law, Chapter
2-63 2001, Government Code; and

2-64 (D) other laws relating to public officials,
2-65 including conflict-of-interest laws; and

2-66 (8) any applicable ethics policies adopted by the
2-67 board or the Texas Ethics Commission.

2-68 (c) A person appointed to the board is entitled to
2-69 reimbursement, as provided by the General Appropriations Act, for

3-1 the travel expenses incurred in attending the training program
 3-2 regardless of whether the attendance at the program occurs before
 3-3 or after the person qualifies for office.

3-4 SECTION 7. Section 1071.104, Occupations Code, is amended
 3-5 to read as follows:

3-6 Sec. 1071.104. REQUIREMENTS [QUALIFICATIONS] AND STANDARDS
 3-7 OF CONDUCT INFORMATION. The executive director or the executive
 3-8 director's designee [board] shall provide[, as often as necessary,]
 3-9 to [its] members of the board and to board employees, as often as
 3-10 necessary, information regarding the requirements [their-
 3-11 [(1) qualifications] for office or employment under
 3-12 this chapter, including information regarding a person's[, and
 3-13 [(2)] responsibilities under applicable laws relating
 3-14 to standards of conduct for state officers or employees.

3-15 SECTION 8. Section 1071.106, Occupations Code, is amended
 3-16 to read as follows:

3-17 Sec. 1071.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY;
 3-18 REPORT. (a) The executive director or the executive director's
 3-19 designee shall prepare and maintain a written policy statement that
 3-20 implements a program [to ensure implementation] of [an] equal
 3-21 employment opportunity to ensure that [program under which] all
 3-22 personnel decisions [transactions] are made without regard to race,
 3-23 color, disability, sex, religion, age, or national origin. The
 3-24 policy statement must include:

3-25 (1) personnel policies, including policies relating
 3-26 to recruitment, evaluation, selection, appointment, training, and
 3-27 promotion of personnel, that show the intent of the board to avoid
 3-28 the unlawful employment practices described by Chapter 21, Labor
 3-29 Code; and

3-30 (2) an [a comprehensive] analysis of the extent to
 3-31 which the composition of the board's personnel is in accordance
 3-32 with [board workforce that meets federal and] state and federal law
 3-33 and a description of reasonable methods to achieve compliance with
 3-34 state and federal law [guidelines;

3-35 [(3) procedures by which a determination can be made
 3-36 of significant underuse in the board workforce of all persons for
 3-37 whom federal or state guidelines encourage a more equitable
 3-38 balance; and

3-39 [(4) reasonable methods to appropriately address
 3-40 those areas of significant underuse].

3-41 (b) A policy statement prepared under Subsection (a) must:

3-42 (1) [cover an annual period;

3-43 [(2)] be updated [at least] annually;

3-44 (2) be reviewed by the Commission on Human Rights for
 3-45 compliance with Subsection (a)(1); and

3-46 (3) be filed with the governor's office [governor].

3-47 [(c) The governor shall deliver a biennial report to the
 3-48 legislature based on information received under Subsection (b).
 3-49 The report may be made separately or as part of other biennial
 3-50 reports made to the legislature.]

3-51 SECTION 9. Subchapter C, Chapter 1071, Occupations Code, is
 3-52 amended by adding Section 1071.107 to read as follows:

3-53 Sec. 1071.107. INFORMATION ON STATE EMPLOYEE INCENTIVE
 3-54 PROGRAM. The executive director or the executive director's
 3-55 designee shall provide to board employees information and training
 3-56 on the benefits and methods of participation in the state employee
 3-57 incentive program under Subchapter B, Chapter 2108, Government
 3-58 Code.

3-59 SECTION 10. Section 1071.151, Occupations Code, is amended
 3-60 by adding Subsection (c) to read as follows:

3-61 (c) The board by rule shall establish the enforcement
 3-62 process for a violation of this chapter or a board rule.

3-63 SECTION 11. Subchapter D, Chapter 1071, Occupations Code,
 3-64 is amended by adding Section 1071.1515 to read as follows:

3-65 Sec. 1071.1515. RULES ON CONSEQUENCES OF CRIMINAL
 3-66 CONVICTION. The board shall adopt rules necessary to comply with
 3-67 Chapter 53.

3-68 SECTION 12. Subchapter D, Chapter 1071, Occupations Code,
 3-69 is amended by adding Sections 1071.1525, 1071.1526, and 1071.158 to

4-1 read as follows:

4-2 Sec. 1071.1525. NEGOTIATED RULEMAKING AND ALTERNATIVE
 4-3 DISPUTE RESOLUTION POLICY. (a) The board shall develop and
 4-4 implement a policy to encourage the use of:

4-5 (1) negotiated rulemaking procedures under Chapter
 4-6 2008, Government Code, for the adoption of board rules; and

4-7 (2) appropriate alternative dispute resolution
 4-8 procedures under Chapter 2009, Government Code, to assist in the
 4-9 resolution of internal and external disputes under the board's
 4-10 jurisdiction.

4-11 (b) The board's procedures relating to alternative dispute
 4-12 resolution must conform, to the extent possible, to any model
 4-13 guidelines issued by the State Office of Administrative Hearings
 4-14 regarding the use of alternative dispute resolution by state
 4-15 agencies.

4-16 (c) The board shall designate a trained person to:

4-17 (1) coordinate the implementation of the policy
 4-18 adopted under Subsection (a);

4-19 (2) serve as a resource for any training necessary for
 4-20 implementation of the negotiated rulemaking or alternative dispute
 4-21 resolution procedures; and

4-22 (3) collect data on the effectiveness of the
 4-23 procedures as implemented by the board.

4-24 Sec. 1071.1526. FEES. The board shall set fees in amounts
 4-25 reasonable and necessary to cover the costs of administering this
 4-26 chapter.

4-27 Sec. 1071.158. TECHNOLOGY POLICY. The board shall develop
 4-28 and implement a policy requiring the executive director and board
 4-29 employees to research and propose appropriate technological
 4-30 solutions to improve the board's ability to perform its functions.
 4-31 The technological solutions must:

4-32 (1) ensure that the public is able to easily find
 4-33 information about the board on the Internet;

4-34 (2) ensure that persons who want to use the board's
 4-35 services are able to:

4-36 (A) interact with the board through the Internet;
 4-37 and

4-38 (B) access any service that can be provided
 4-39 effectively through the Internet; and

4-40 (3) be cost-effective and developed through the
 4-41 board's planning process.

4-42 SECTION 13. Section 1071.203, Occupations Code, is amended
 4-43 by adding Subsection (c) to read as follows:

4-44 (c) The board shall accept a complaint regardless of whether
 4-45 the complaint is notarized.

4-46 SECTION 14. Section 1071.204, Occupations Code, is amended
 4-47 to read as follows:

4-48 Sec. 1071.204. RECORDS OF COMPLAINTS. (a) The board shall
 4-49 maintain a [keep an information] file on [about] each written
 4-50 complaint filed with the board that the board has authority to
 4-51 resolve. The file must include:

4-52 (1) the name of the person who filed the complaint;

4-53 (2) the date the complaint is received by the board;

4-54 (3) the subject matter of the complaint;

4-55 (4) the name of each person contacted in relation to
 4-56 the complaint;

4-57 (5) a summary of the results of the review or
 4-58 investigation of the complaint; and

4-59 (6) an explanation of the reason the file was closed,
 4-60 if the board closed the file without taking action other than to
 4-61 investigate the complaint.

4-62 (b) If a written complaint that the board has authority to
 4-63 resolve is filed with the board, the board shall provide to the
 4-64 person filing the complaint and to each person who is a subject of
 4-65 the complaint a copy of the board's policies and procedures
 4-66 relating to complaint investigation and resolution.

4-67 (c) The board, at least quarterly and until final
 4-68 disposition of the complaint, shall notify the person filing
 4-69 [parties to] the complaint and each person who is a subject of the

5-1 complaint of the status of the investigation [complaint] unless the
 5-2 notice would jeopardize an undercover investigation.

5-3 (d) Except as provided by Subsection (e), a complaint filed
 5-4 with the board is public information.

5-5 (e) A frivolous complaint is public information, except
 5-6 that the license holder's name and other personal information shall
 5-7 be redacted.

5-8 (f) In this section, "frivolous complaint" means a
 5-9 complaint that the executive director and investigator, with board
 5-10 approval, determine:

5-11 (1) was made for the purpose of harassment; and

5-12 (2) does not demonstrate harm to any person.

5-13 SECTION 15. Subsection (b), Section 1071.252, Occupations
 5-14 Code, is amended to read as follows:

5-15 (b) An application must be made on a form prescribed and
 5-16 furnished by the board and contain statements [~~made under oath~~]
 5-17 that show the applicant's education and experience. The
 5-18 application must contain a detailed summary of the applicant's
 5-19 education and experience and references from at least three
 5-20 registered professional land surveyors having personal knowledge
 5-21 of the applicant's surveying experience. The board shall accept an
 5-22 application that meets board requirements regardless of whether the
 5-23 application is notarized.

5-24 SECTION 16. Section 1071.257, Occupations Code, is amended
 5-25 to read as follows:

5-26 Sec. 1071.257. EXAMINATION RESULTS. (a) Not later than
 5-27 the 30th day after the date a person takes a licensing examination,
 5-28 the [~~The~~] board shall notify the person [~~each examinee~~] of the
 5-29 [~~examination~~] results of the [~~not later than the 30th day after the~~
 5-30 ~~date the board receives notice of all~~] examination [~~results~~].

5-31 (b) If the examination is graded or reviewed by a testing
 5-32 service:

5-33 (1) the board shall notify the person of the results of
 5-34 the examination not later than the 14th day after the date the board
 5-35 receives the results from the testing service; and

5-36 (2) if notice of the examination results will be
 5-37 delayed for longer than 90 days after the examination date, the
 5-38 board shall notify the person of the reason for the delay before the
 5-39 90th day.

5-40 (c) If requested in writing by a person who fails an
 5-41 examination administered under this chapter, the board shall
 5-42 furnish [~~provide to~~] the person with an analysis of the person's
 5-43 performance on the examination. The analysis shall be provided in a
 5-44 summary form that does not compromise the integrity of the
 5-45 examination.

5-46 (d) The board may require a testing service to notify a
 5-47 person of the results of the person's examination.

5-48 SECTION 17. Section 1071.258, Occupations Code, is amended
 5-49 to read as follows:

5-50 Sec. 1071.258. REEXAMINATION; FEE. An applicant who fails
 5-51 an examination may apply to take a subsequent examination by filing
 5-52 an updated application and paying an additional examination fee set
 5-53 by the board [~~not to exceed \$100~~].

5-54 SECTION 18. Subsection (b), Section 1071.259, Occupations
 5-55 Code, is amended to read as follows:

5-56 (b) The board may issue a certificate of registration as a
 5-57 registered professional land surveyor to an applicant under this
 5-58 section who meets all waived and unwaived registration requirements
 5-59 and who:

5-60 (1) applies to the board for a certificate of
 5-61 registration;

5-62 (2) pays a fee set by the board [~~in an amount not to~~
 5-63 ~~exceed \$100~~]; and

5-64 (3) passes an examination on Texas surveying.

5-65 SECTION 19. Section 1071.262, Occupations Code, is amended
 5-66 to read as follows:

5-67 Sec. 1071.262. REPLACEMENT OF REVOKED, LOST, OR DESTROYED
 5-68 CERTIFICATE OR LICENSE. The board may issue, on payment of a [~~\$20~~]
 5-69 fee set by the board and subject to board rules, a new certificate

6-1 of registration or license to replace a certificate or license that
6-2 has been revoked, lost, destroyed, or mutilated.

6-3 SECTION 20. Subsection (b), Section 1071.263, Occupations
6-4 Code, is amended to read as follows:

6-5 (b) A registration holder on inactive status must pay an
6-6 annual fee set by the board ~~[of \$10]~~.

6-7 SECTION 21. Subsection (a), Section 1071.301, Occupations
6-8 Code, is amended to read as follows:

6-9 (a) The board by rule may adopt a system under which
6-10 certificates of registration and licenses expire on various dates
6-11 during the year. For the year in which the [A] certificate [of
6-12 registration] or [a] license expiration date is changed, the board
6-13 shall prorate certificate and license fees on a monthly basis so
6-14 that each certificate or license holder pays only that portion of
6-15 the certificate or license fee that is allocable to the number of
6-16 months during which the certificate or license is valid. On renewal
6-17 of the certificate or license on the new expiration date, the total
6-18 certificate or license renewal fee is payable [issued under this
6-19 chapter expires on December 31 of each year or on a date set by board
6-20 rule as part of a staggered renewal system].

6-21 SECTION 22. Section 1071.302, Occupations Code, is amended
6-22 to read as follows:

6-23 Sec. 1071.302. NOTICE OF EXPIRATION. Not later than
6-24 [Before] the 30th day before [preceding] the [expiration] date [of]
6-25 a person's certificate of registration or license is scheduled to
6-26 expire, the board shall send written notice of the impending
6-27 expiration to the person at the person's last known address
6-28 according to the board's records.

6-29 SECTION 23. Section 1071.303, Occupations Code, is amended
6-30 to read as follows:

6-31 Sec. 1071.303. PROCEDURE FOR RENEWAL. (a) A person who is
6-32 otherwise eligible to renew a certificate of registration or
6-33 license may renew an unexpired certificate [of registration] or
6-34 license by paying the required renewal fee to the board before the
6-35 expiration date of the certificate or license. A person whose
6-36 certificate or license has expired may not engage in activities
6-37 that require a certificate or license until the certificate or
6-38 license has been renewed.

6-39 (b) A person whose certificate or license has been expired
6-40 for 90 days or less may renew the certificate or license by paying
6-41 to the board a [the required] renewal fee [and a fee] that is equal
6-42 to 1-1/2 times the normally required renewal [half of the amount of
6-43 the examination] fee [for the certificate or license].

6-44 (c) A person whose certificate or license has been expired
6-45 for more than 90 days but less than one year may renew the
6-46 certificate or license by paying to the board a [all unpaid] renewal
6-47 [fees and a] fee that is equal to two times the normally required
6-48 renewal [the amount of the examination] fee [for the certificate or
6-49 license].

6-50 (d) A person whose certificate or license has been expired
6-51 for one year or more may not renew the certificate or license. The
6-52 person may obtain a new certificate or license by [submitting to
6-53 reexamination and] complying with the requirements and procedures,
6-54 including the examination requirements, for obtaining an original
6-55 certificate or license.

6-56 (e) A person who was registered or licensed in this state,
6-57 moved to another state, and is currently registered or licensed and
6-58 has been in practice in the other state for the two years preceding
6-59 the date of application may obtain a new certificate or license
6-60 without reexamination. The person must pay to the board a fee that
6-61 is equal to two times the normally required renewal fee for the
6-62 certificate or license.

6-63 SECTION 24. Subsection (a), Section 1071.401, Occupations
6-64 Code, is amended to read as follows:

6-65 (a) The board shall revoke, [or] suspend, or refuse to renew
6-66 a certificate of registration or license, place on probation a
6-67 person whose certificate or license has been suspended, or
6-68 reprimand a registration holder or license holder for:

6-69 (1) fraud or deceit in obtaining a certificate or

7-1 license under this chapter;

7-2 (2) gross negligence, incompetence, or misconduct in
7-3 the practice of surveying as a land surveyor; or

7-4 (3) a violation of this chapter or a board rule.

7-5 SECTION 25. Section 1071.402, Occupations Code, is amended
7-6 by amending Subsection (b) and adding Subsections (c) through (g)
7-7 to read as follows:

7-8 (b) The board shall assign an employee or contract with an
7-9 investigator to investigate each alleged violation of this chapter
7-10 or a board rule [an applicable statute] that is reported to the
7-11 board [and substantiated by an affidavit]. The board may employ
7-12 investigators and inspectors as necessary to properly enforce this
7-13 chapter.

7-14 (c) A board employee investigating an alleged violation
7-15 may:

7-16 (1) dismiss a complaint that is without merit; or

7-17 (2) determine whether a person has committed the
7-18 violation and recommend sanctions to the board.

7-19 (d) A board employee investigating an alleged violation
7-20 shall report the dismissal of a complaint under Subsection (c)(1)
7-21 to the board in the manner required by the board.

7-22 (e) The person making a complaint that is dismissed under
7-23 Subsection (c)(1) may request reconsideration of the dismissal by
7-24 the board.

7-25 (f) The board may appoint a subcommittee of the board that
7-26 includes at least one board member who represents the public to
7-27 assist in an investigation. A member of a subcommittee or a member
7-28 of the board who consults with board personnel or an investigator on
7-29 a complaint may not vote at a board disciplinary hearing related to
7-30 the complaint.

7-31 (g) The board may not take into consideration a previously
7-32 dismissed complaint while resolving a complaint before the board.
7-33 The board may take into consideration any previous violation of
7-34 this chapter or a board rule when assessing a sanction or penalty
7-35 for a complaint before the board.

7-36 SECTION 26. Subchapter I, Chapter 1071, Occupations Code,
7-37 is amended by adding Section 1071.4035 to read as follows:

7-38 Sec. 1071.4035. INFORMAL SETTLEMENT CONFERENCE;
7-39 RESTITUTION. (a) The board by rule shall establish guidelines for
7-40 an informal settlement conference related to a complaint filed with
7-41 the board.

7-42 (b) Subject to Subsection (c), the board may order a person
7-43 licensed or registered under this chapter to pay restitution to a
7-44 consumer as provided in an agreement resulting from an informal
7-45 settlement conference instead of or in addition to assessing an
7-46 administrative penalty under this chapter.

7-47 (c) The amount of restitution ordered as provided in an
7-48 agreement resulting from an informal settlement conference may not
7-49 exceed the amount the consumer paid to the person for a service
7-50 regulated by this chapter. The board may not require payment of
7-51 other damages or estimate harm in a restitution order.

7-52 SECTION 27. Section 1071.404, Occupations Code, is amended
7-53 to read as follows:

7-54 Sec. 1071.404. PROBATION. (a) The board may require a
7-55 person whose certificate of registration or license suspension is
7-56 probated to:

7-57 (1) report regularly to the board on matters that are
7-58 the basis of the probation;

7-59 (2) limit practice to the areas prescribed by the
7-60 board; or

7-61 (3) continue or renew professional education until the
7-62 practitioner attains a degree of skill satisfactory to the board in
7-63 those areas that are the basis of the probation.

7-64 (b) The board by rule shall adopt written guidelines to
7-65 ensure that probation is administered consistently.

7-66 SECTION 28. Section 1071.452, Occupations Code, is amended
7-67 by adding Subsection (c) to read as follows:

7-68 (c) The board by rule shall adopt an administrative penalty
7-69 schedule for violations of this chapter or board rules to ensure

8-1 that the amounts of penalties imposed are appropriate to the
 8-2 violation.

8-3 SECTION 29. Chapter 1071, Occupations Code, is amended by
 8-4 adding Subchapter L to read as follows:

8-5 SUBCHAPTER L. EXAMINATION ADVISORY COMMITTEES

8-6 Sec. 1071.551. EXAMINATION ADVISORY COMMITTEES. The board
 8-7 may establish examination advisory committees to assist the board
 8-8 in developing each examination required by this chapter.

8-9 Sec. 1071.552. BOARD RULES. (a) The board by rule shall:
 8-10 (1) establish the purpose, role, responsibility, and
 8-11 goals of an examination advisory committee;
 8-12 (2) determine the size of and quorum requirements for
 8-13 an examination advisory committee;
 8-14 (3) determine the qualifications of an examination
 8-15 advisory committee member, which may include experience and
 8-16 geographic location requirements;
 8-17 (4) provide a process for the appointment of
 8-18 examination advisory committee members;
 8-19 (5) establish the term of office for examination
 8-20 advisory committee members; and
 8-21 (6) determine the training requirements for an
 8-22 examination advisory committee member.

8-23 (b) The board by rule shall define the examination
 8-24 development process under this chapter, including the board's
 8-25 interaction with the examination advisory committees during the
 8-26 process.

8-27 Sec. 1071.553. ELIGIBILITY OF BOARD MEMBER. (a) A board
 8-28 member is not eligible to serve as a voting member of an examination
 8-29 advisory committee.

8-30 (b) A board member may attend an examination advisory
 8-31 committee meeting to act as a liaison with the board.

8-32 Sec. 1071.554. MEETINGS. (a) Except as provided by
 8-33 Subsection (b), the meetings of an examination advisory committee
 8-34 are open meetings under Chapter 551, Government Code.

8-35 (b) An examination advisory committee may hold a closed
 8-36 meeting to consider a test item or information related to a test
 8-37 item as provided by Section 551.088, Government Code.

8-38 Sec. 1071.555. APPLICABILITY OF OTHER LAW. (a) Except as
 8-39 provided by Subsection (b), an examination advisory committee is
 8-40 subject to Chapter 2110, Government Code.

8-41 (b) Section 2110.002(b), Government Code, does not apply to
 8-42 the appointment of examination advisory committee members.

8-43 Sec. 1071.556. EXAMINATION ADVISORY COMMITTEE DUTIES. An
 8-44 examination advisory committee shall:

8-45 (1) develop the examinations required by this chapter
 8-46 in accordance with board rules; and

8-47 (2) perform other tasks assigned by the board.

8-48 SECTION 30. (a) Not later than January 1, 2004, the Texas
 8-49 Board of Professional Land Surveying shall:

8-50 (1) adopt the rules required by Sections 1071.1515 and
 8-51 1071.4035, Occupations Code, as added by this Act; and

8-52 (2) set the fees required by Section 1071.1526,
 8-53 Occupations Code, as added by this Act.

8-54 (b) Not later than September 1, 2005, the Texas Board of
 8-55 Professional Land Surveying shall:

8-56 (1) adopt the written guidelines required by Section
 8-57 1071.404, Occupations Code, as amended by this Act; and

8-58 (2) adopt the administrative penalty schedule
 8-59 required by Subsection (c), Section 1071.452, Occupations Code, as
 8-60 added by this Act.

8-61 SECTION 31. (a) In accordance with Subsection (c), Section
 8-62 311.031, Government Code, which gives effect to a substantive
 8-63 amendment enacted by the same legislature that codifies the amended
 8-64 statute, the text of Section 1071.258, Occupations Code, as set out
 8-65 in Section 17 of this Act, gives effect to changes made by Chapter
 8-66 594, Acts of the 77th Legislature, Regular Session, 2001.

8-67 (b) To the extent of any conflict, this Act prevails over
 8-68 another Act of the 78th Legislature, Regular Session, 2003,
 8-69 relating to nonsubstantive additions to and corrections in enacted

9-1 codes.

9-2 SECTION 32. (a) A rule adopted by the Texas Board of
9-3 Professional Land Surveying applicable to Chapter 1071,
9-4 Occupations Code, that is in effect on the effective date of this
9-5 Act shall remain in effect as a rule of the Texas Board of
9-6 Professional Land Surveying until superseded by a new rule adopted
9-7 by the Texas Board of Professional Land Surveying.

9-8 (b) The changes in law made by this Act by Section 1071.053,
9-9 Occupations Code, as amended by this Act, and Section 1071.059,
9-10 Occupations Code, as added by this Act, in the prohibitions on or
9-11 qualifications of members of the Texas Board of Professional Land
9-12 Surveying do not affect the entitlement of a member serving on the
9-13 Texas Board of Professional Land Surveying immediately before
9-14 September 1, 2003, to continue to serve and function as a member of
9-15 the Texas Board of Professional Land Surveying for the remainder of
9-16 the member's term. Those changes in law apply only to a member
9-17 appointed on or after September 1, 2003.

9-18 (c) The change in law made by this Act to Chapter 1071,
9-19 Occupations Code, relating to the investigation of a complaint
9-20 applies only to a complaint filed with the Texas Board of
9-21 Professional Land Surveying on or after the effective date of this
9-22 Act. A complaint filed with the board before the effective date of
9-23 this Act is governed by the law as it existed immediately before
9-24 that date, and the former law is continued in effect for that
9-25 purpose.

9-26 (d) Of the four positions on the Texas Board of Professional
9-27 Land Surveying held by registered professional land surveyor
9-28 members, one of the positions is abolished on September 1, 2003. On
9-29 or before September 1, 2003, the four members who hold those
9-30 positions shall determine by unanimous agreement or by lot which of
9-31 the four positions is abolished on September 1, 2003, and shall
9-32 inform the president of the board of that determination.

9-33 SECTION 33. This Act takes effect September 1, 2003.

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