

BILL ANALYSIS

S.B. 138
By: Zaffirini
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Board of Professional Geoscientists is responsible for licensing persons under and ensuring compliance with the Texas Geoscience Practice Act and for conducting certain outreach activities. Among its duties, the board receives, investigates, and determines disciplinary action for complaints brought against licensed geoscientists. In light of recent recommendations provided in a Legislative Budget Board government efficiency and effectiveness report, interested parties assert that current law relating to the complaint process needs to be streamlined to remove unnecessary obstacles and complications and does not adequately provide for the responsibility of other state agencies to engage in the board's complaint process. S.B. 138 seeks to address these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Professional Geoscientists in SECTION 4 of this bill.

ANALYSIS

S.B. 138 amends the Occupations Code to require the Texas Board of Professional Geoscientists to maintain on its Internet website information regarding the procedure for filing a complaint with the board and a means by which a person may electronically file a complaint with the board. The bill specifies that a complaint from a member of the public may be filed electronically through the board's Internet website as an alternative to being filed with the secretary-treasurer and requires the board to accept a complaint regardless of whether the complaint is notarized.

S.B. 138 requires the board to work with each state agency that uses the services of a person licensed under the Texas Geoscience Practice Act and other appropriate state agencies as determined by the board, including a state agency with which the board 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 the board.

S.B. 138 requires a state agency that becomes aware of a potential violation of the Texas Geoscience Practice Act or a rule adopted under that act to forward any information relating to the potential violation and any subsequently obtained information to the board and specifies that information forwarded by a state agency that is privileged or confidential remains privileged or confidential following receipt by the board. The bill establishes that the privilege or confidentiality of such information extends to any board communication concerning the information, regardless of the form, manner, or content of the communication and 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. The bill specifies that a state agency's provision of information or failure to provide information under the bill's provisions does not give rise to a cause of action against the agency.

S.B. 138 requires the Texas Board of Professional Geoscientists, not later than December 1, 2013, to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2013.