

BILL ANALYSIS

S.B. 204
By: Nichols
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Board of Professional Engineers (Board) regulates Professional Engineers, Engineers-in-Training, and engineering firms. To fulfill its mission of protecting the public, the Board licenses Professional Engineers and registers engineering firms, investigates complaints, and takes disciplinary actions against individuals who violate the Board's statute or rules.

The Board is subject to the Sunset Act and will be abolished on September 1, 2013, unless continued by the Legislature. As a result of its review of the Texas Board of Professional Engineers, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Professional Engineers in SECTION 10 of this bill.

ANALYSIS

Continues the Texas Board of Professional Engineers.

S.B. 204 changes the date of the Texas Board of Professional Engineer's next Sunset review to 2025, continuing the agency for 12 years.

Prohibits the Board from collecting the \$200 professional fee before applicants satisfy licensing requirements as Professional Engineers.

S.B. 204 requires the Board to collect the \$200 professional fee only from applicants who have satisfied the requirements for licensure.

Requires the Board to adopt policies governing the testing process and administration.

S.B. 204 requires the Board to adopt policies governing the testing process and administration, and removes a specific testing requirement for administering exams. S.B. 204 requires the Board to post its policies that reference the Board's exam procedures on its website.

Requires the Board to conduct fingerprint-based criminal background checks of Professional Engineer applicants and licensees with active licenses.

S.B. 204 requires applicants for licensure and license renewal on or after January 1, 2014 to submit their fingerprints to the Board or the Department of Public Safety (DPS) to obtain criminal history record information from DPS and the Federal Bureau of Investigation. Applicants for license renewal who have previously submitted fingerprints as part of an application for initial licensure or renewal are not required to resubmit fingerprints. The bill prohibits the Board from issuing a license or a license renewal to a person who does not comply with this requirement. The bill requires the Board to conduct fingerprint criminal history checks for licensure, and authorizes the Board to enter into an agreement with DPS to administer a criminal history check. S.B. 204 also authorizes DPS to collect the costs incurred in conducting the criminal history check from each applicant.

Authorizes the Board to issue summary suspension orders.

S.B. 204 requires the Board or panel of board members to temporarily suspend the license, certificate, or registration of an individual when the continued practice of the person presents a continuing or immediate threat to the public welfare. The bill provides for such suspension without notice or hearing if simultaneous action is taken to get a hearing at the State Office of Administrative Hearings and the hearing is held as soon as practicable thereafter. The bill also requires SOAH to hold a preliminary hearing no later than the 14th day after the temporary suspension to determine whether probable cause exists to believe a continuing threat to public welfare exists. A final hearing on the suspension must be held no later than the 61st day after the suspension.

Increases the Boards administrative penalty authority to \$5,000 per violation per day for violations of the Engineering Practice Act.

S.B. 204 increases the Board's administrative penalty authority from \$3,000 to \$5,000 per violation per day for violations that occur on or after the effective date of the bill.

Grants the Board cease-and-desist authority.

S.B. 204 grants the Board the authority to issue a cease-and-desist order, after notice and opportunity for hearing, if it appears to the Board that a person who is not licensed, certified, or registered under the Engineering Practice Act, is violating the Act, rule adopted under the Act, or other state law relating to the practice of engineering.

EFFECTIVE DATE

This Act takes effect September 1, 2013.