

By: Thompson of Harris

H.B. No. 1311

Substitute the following for H.B. No. 1311:

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C.S.H.B. No. 1311

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Board of Professional Geoscientists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1002.003, Occupations Code, is amended to read as follows:

Sec. 1002.003. APPLICATION OF SUNSET ACT. The Texas Board of Professional Geoscientists is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2025 [~~2019~~].

SECTION 2. Section 1002.057, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(a-1) The board shall elect biennially from its own membership an [~~a presiding officer,~~] assistant presiding officer[~~7~~] and a secretary-treasurer. A member may not hold a position described by this subsection [~~one of these positions~~] for more than two consecutive two-year periods. A member serves in a [~~the~~] position described by this subsection at the will of the board and may be removed from that [~~the~~] position by a two-thirds majority

1 vote of the board.

2 SECTION 3. Section 1002.060, Occupations Code, is amended
3 by amending Subsection (b) and adding Subsection (d) to read as
4 follows:

5 (b) The training program must provide the person with
6 information regarding:

7 (1) the law governing board operations [~~legislation~~
8 ~~that created the board~~];

9 (2) the board's programs, functions, rules, and budget
10 [~~operated by the board~~];

11 (3) the scope of and limitations on the rulemaking
12 authority of the board [~~role and functions of the board~~];

13 (4) the types of board rules, interpretations, and
14 enforcement actions that may implicate federal antitrust law by
15 limiting competition or impacting prices charged by persons engaged
16 in a profession or business the board regulates, including any
17 rule, interpretation, or enforcement action that:

18 (A) regulates the scope of practice of persons in
19 a profession or business the board regulates;

20 (B) restricts advertising by persons in a
21 profession or business the board regulates;

22 (C) affects the price of goods or services
23 provided by persons in a profession or business the board
24 regulates; or

25 (D) restricts participation in a profession or
26 business the board regulates [~~rules of the board, with an emphasis~~
27 ~~on the rules that relate to disciplinary and investigative~~

1 authority];

2 (5) ~~[the current budget for the board,~~
3 ~~(6)]~~ the results of the most recent formal audit of the
4 board;

5 (6) ~~(7)]~~ the requirements of:

6 (A) laws relating to ~~[the]~~ open meetings, ~~[law,~~
7 ~~Chapter 551, Government Code,~~

8 ~~(B) the]~~ public information, ~~[law, Chapter 552,~~
9 ~~Government Code,~~

10 ~~(C) the]~~ administrative procedure, and
11 disclosure of conflicts of interest ~~[law, Chapter 2001, Government~~
12 ~~Code]; and~~

13 (B) ~~(D)]~~ other laws applicable to members of a
14 state policymaking body in performing their duties ~~[relating to~~
15 ~~public officials, including conflict-of-interest laws]; and~~

16 (7) ~~(8)]~~ any applicable ethics policies adopted by
17 the board or the Texas Ethics Commission.

18 (d) The executive director of the board shall create a
19 training manual that includes the information required by
20 Subsection (b). The executive director shall distribute a copy of
21 the training manual annually to each member of the board. Each
22 member of the board shall sign and submit to the executive director
23 a statement acknowledging that the member received and has reviewed
24 the training manual.

25 SECTION 4. Subchapter D, Chapter 1002, Occupations Code, is
26 amended by adding Section 1002.1511 to read as follows:

27 Sec. 1002.1511. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE

1 RESOLUTION. (a) The board shall develop a policy to encourage the
2 use of:

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

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

9 (b) The board's procedures relating to alternative dispute
10 resolution must conform, to the extent possible, to any model
11 guidelines issued by the State Office of Administrative Hearings
12 for the use of alternative dispute resolution by state agencies.

13 (c) The board shall:

14 (1) coordinate the implementation of the policy
15 adopted under Subsection (a);

16 (2) provide training as needed to implement the
17 procedures for negotiated rulemaking or alternative dispute
18 resolution; and

19 (3) collect data concerning the effectiveness of those
20 procedures.

21 SECTION 5. Section 1002.204, Occupations Code, is amended
22 by amending Subsection (a) and adding Subsection (c) to read as
23 follows:

24 (a) The board shall maintain a system to promptly and
25 efficiently act on complaints filed with the board. The board shall
26 provide to the person filing the complaint and to each person who is
27 a subject of the complaint a copy of the board's policies and

1 procedures relating to complaint investigation and resolution.

2 (c) The board may employ or contract with advisors,
3 consultants, geoscientists, engineers, or other persons to provide
4 technical assistance in investigations and disciplinary
5 proceedings. Except for an action involving fraud, conspiracy, or
6 malice, a person whose services are obtained by the board under this
7 subsection is immune from civil liability and may not be subjected
8 to a suit for damages for any investigation, report,
9 recommendation, statement, evaluation, finding made, or other
10 action taken in the course of performing the person's official
11 duties.

12 SECTION 6. Sections 1002.253(a) and (c), Occupations Code,
13 are amended to read as follows:

14 (a) An applicant for a license under this chapter, including
15 an applicant for a temporary or reciprocal license, must apply on a
16 form prescribed by the board that is signed [~~and sworn to~~] by the
17 applicant [~~before a notary public~~].

18 (c) The application must be accompanied by[+
19 [~~(1) not fewer than five reference letters, of which~~
20 ~~not fewer than three are from geoscientists, or other professionals~~
21 ~~acceptable to the board, who have personal knowledge of the~~
22 ~~applicant's relevant work experience, and~~
23 [~~(2)~~] the appropriate application fee.

24 SECTION 7. Section 1002.255, Occupations Code, is amended
25 to read as follows:

26 Sec. 1002.255. LICENSE ELIGIBILITY. (a) To be eligible for
27 a license under this chapter, an applicant must:

1 (1) ~~[be of good moral and ethical character as~~
2 ~~attested to by letters of reference submitted in behalf of the~~
3 ~~applicant or as otherwise determined by the board,~~

4 ~~(2)~~ have:

5 (A) graduated from a course of study in a
6 discipline of geoscience satisfactory to the board that consists of
7 at least four years of study and includes at least 30 semester hours
8 or 45 quarter hours of credit in geoscience, of which at least 20
9 semester hours or 30 quarter hours of credit must be in upper-level
10 college courses in that discipline; or

11 (B) satisfactorily completed other equivalent
12 educational requirements as determined by the board;

13 (2) ~~(3)~~ have a documented record of at least five
14 years of qualifying work experience, as provided by Section
15 [1002.256](#), that demonstrates that the applicant is qualified to
16 assume responsible charge of geoscientific work;

17 (3) ~~(4)~~ pass an examination required by the board
18 covering the fundamentals and practice of the appropriate
19 discipline of geoscience; and

20 (4) ~~(5)~~ meet any other requirements established by
21 the board.

22 (b) The board may accept qualifying work experience in lieu
23 of the education required by Subsection (a)(1) ~~(a)(2)~~.

24 SECTION 8. Section [1002.257](#)(a), Occupations Code, is
25 amended to read as follows:

26 (a) The board by rule may authorize the licensing of a
27 person who has not met the examination requirement of Section

1 1002.255(a)(3) [~~1002.255(a)(4)~~] if the person is licensed or
2 registered to practice a discipline of geoscience under the law of
3 another state or a foreign country.

4 SECTION 9. Section 1002.260, Occupations Code, is amended
5 to read as follows:

6 Sec. 1002.260. CONFIDENTIALITY OF CERTAIN INFORMATION. A
7 statement made by a person who provides [~~a reference for an~~
8 ~~applicant for a license under this chapter or provides~~] any
9 information compiled by or submitted to the board relating to an
10 applicant is privileged and confidential and may be used only by the
11 board or an employee or agent of the board who is directly involved
12 in the application or licensure process. Confidential information
13 under this section is not subject to discovery, subpoena, or other
14 disclosure in any proceeding.

15 SECTION 10. Section 1002.452(b), Occupations Code, is
16 amended to read as follows:

17 (b) The amount of the penalty may not exceed \$1,500 [~~\$100~~]
18 for each violation. Each day a violation continues or occurs is a
19 separate violation for purposes of imposing a penalty.

20 SECTION 11. (a) Except as provided by Subsection (b) of
21 this section, Section 1002.060, Occupations Code, as amended by
22 this Act, applies to a member of the Texas Board of Professional
23 Geoscientists appointed before, on, or after the effective date of
24 this Act.

25 (b) A member of the Texas Board of Professional
26 Geoscientists who, before the effective date of this Act, completed
27 the training program required by Section 1002.060, Occupations

1 Code, as that law existed before the effective date of this Act, is
2 required to complete additional training only on subjects added by
3 this Act to the training program as required by Section 1002.060,
4 Occupations Code, as amended by this Act. A board member described
5 by this subsection may not vote, deliberate, or be counted as a
6 member in attendance at a meeting of the board held on or after
7 December 1, 2019, until the member completes the additional
8 training.

9 SECTION 12. Sections 1002.253 and 1002.255, Occupations
10 Code, as amended by this Act, apply only to an application for a
11 license to practice geoscience filed on or after the effective date
12 of this Act. An application for a license filed before the
13 effective date of this Act is governed by the law in effect on the
14 date the application was filed, and the former law is continued in
15 effect for that purpose.

16 SECTION 13. As soon as practicable after the effective date
17 of this Act, the governor shall designate a member of the Texas
18 Board of Professional Geoscientists as the presiding officer of the
19 board pursuant to Section 1002.057, Occupations Code, as amended by
20 this Act.

21 SECTION 14. Section 1002.452, Occupations Code, as amended
22 by this Act, applies only to conduct that occurs on or after the
23 effective date of this Act. Conduct that occurs before the
24 effective date of this Act is governed by the law in effect on the
25 date the conduct occurred, and the former law is continued in effect
26 for that purpose.

27 SECTION 15. This Act takes effect September 1, 2019.