SENATE AMENDMENTS

2nd Printing

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A BILL TO BE ENTITLED

AN ACT

relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.

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

ARTICLE 1. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION 1.01. The heading to Chapter 1001, Occupations Code, is amended to read as follows:

CHAPTER 1001. <u>TEXAS BOARD OF PROFESSIONAL</u> ENGINEERS <u>AND LAND SURVEYORS</u>

SECTION 1.02. Section 1001.002, Occupations Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Board" means the Texas Board of Professional Engineers <u>and Land Surveyors</u>.

<u>(3) "Land surveyor," "licensed state land surveyor," "professional surveying," "registered professional land surveyor," and "state land surveying" have the meanings assigned by Section 1071.002.</u>

SECTION 1.03. Section 1001.004(e), Occupations Code, is amended to read as follows:

(e) This chapter does not:

(1) prevent a person from identifying the person in the name and trade of any engineers' labor organization with which the person is affiliated;

(2) prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board's disciplinary powers under Subchapter J regarding negligence, incompetency, or misconduct in the practice of engineering; or

(3) [~~repeal or amend a law affecting or regulating a licensed state land surveyor; or~~

[~~(4)~~] affect or prevent the practice of any other legally recognized profession by a member of the profession who is licensed by the state or under the state's authority.

SECTION 1.04. Section 1001.005, Occupations Code, is amended to read as follows:

Sec. 1001.005. APPLICATION OF SUNSET ACT. The Texas Board of Professional Engineers and Land Surveyors 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.

SECTION 1.05. Section 1001.064, Occupations Code, is amended to read as follows:

Sec. 1001.064. STATE LAND SURVEYORS. A licensed state land surveyor is exempt from the requirements of this chapter regulating the practice of engineering in performing the [~~a~~] state land surveyor's duties.

SECTION 1.06. The heading to Subchapter C, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER C. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION 1.07. Section 1001.101(a), Occupations Code, is amended to read as follows:

(a) The Texas Board of Professional Engineers and Land Surveyors consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) five [~~six~~] engineers; [~~and~~]

(2) one land surveyor; and

(3) three members who represent the public.

SECTION 1.08. Subchapter C, Chapter 1001, Occupations Code, is amended by adding Section 1001.1011 to read as follows:

Sec. 1001.1011. EX OFFICIO MEMBER. The commissioner of the General Land Office or a licensed state land surveyor employee of the General Land Office designated by the commissioner as director of surveying shall serve as an ex officio, nonvoting member of the board.

SECTION 1.09. Section 1001.102, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of engineering or land surveying;

(2) is employed by or participates in the management

of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(d) A land surveyor member of the board:

(1) must be:

(A) a licensed state land surveyor actively engaged in the practice of state land surveying for not less than the five years preceding appointment; or

(B) a registered professional land surveyor actively engaged in the practice of professional surveying in this state for not less than the five years preceding appointment; and

(2) may not be licensed as an engineer.

SECTION 1.10. Section 1001.103(a-1), Occupations Code, is amended to read as follows:

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

(1) the person is an officer, employee, or paid

consultant of a Texas trade association in the field of engineering or land surveying; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of engineering or land surveying.

SECTION 1.11. Section 1001.105, Occupations Code, is amended to read as follows:

Sec. 1001.105. PARTICIPATION OF PUBLIC MEMBERS. (a) The board by majority vote may limit the participation of public members in evaluating license, registration, or certification applications.

(b) This section does not apply to the evaluation of license, registration, or certification applications at an official meeting of the board.

SECTION 1.12. Section 1001.107, Occupations Code, is amended to read as follows:

Sec. 1001.107. PER DIEM. Each [~~A~~] board member, other than the commissioner of the General Land Office, is entitled to receive a per diem as set by the General Appropriations Act for each day that the member engages in the business of the board.

SECTION 1.13. Section 1001.112(b), Occupations Code, is amended to read as follows:

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

(1) this chapter and Chapter 1071;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

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

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

SECTION 1.14. Section 1001.201, Occupations Code, is amended to read as follows:

Sec. 1001.201. GENERAL POWERS AND DUTIES. (a) The board shall administer and enforce this chapter <u>and Chapter 1071</u>.

(b) The board may spend money for any purpose the board considers reasonably necessary for the proper performance of its duties under this chapter <u>and Chapter 1071</u>.

SECTION 1.15. Section 1001.202, Occupations Code, is amended to read as follows:

Sec. 1001.202. RULES. The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its

proceedings, and regulate the practice of engineering and land surveying.

SECTION 1.16. Sections 1001.203(b) and (c), Occupations Code, are amended to read as follows:

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board [~~license holder~~] except to prohibit false, misleading, or deceptive practices.

(c) In its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of the person's [~~a license holder's~~] personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person [~~license holder~~]; or

(4) restricts the person's [~~license holder's~~] advertisement under a trade name.

SECTION 1.17. Section 1001.204, Occupations Code, is amended to read as follows:

Sec. 1001.204. FEES. (a) The board shall establish [~~the following~~] fees in amounts reasonable and necessary to cover the costs of administering this chapter and Chapter 1071, including:

(1) license, registration, and certification fees [~~fee~~];

(2) [~~annual and late~~] renewal fee [~~fees~~];

(3) reciprocal license fee;

(4) duplicate license fee;

(5) [~~engineer-in-training certificate fee;~~

[~~(6)~~] roster [~~of engineers~~] fee;

(6) [~~(7)~~] examination fee;

[~~(8) registration fee for engineering firm;~~] and

(7) [~~(9)~~] inactive status fee.

(b) Fee revenue may not exceed the amount reasonable and necessary to administer this chapter and Chapter 1071.

(c) General revenue of the state may not be used to pay the costs of administering this chapter and Chapter 1071 in an amount that exceeds the amount of fees received under this chapter and Chapter 1071.

SECTION 1.18. Section 1001.205, Occupations Code, is amended to read as follows:

Sec. 1001.205. REDUCED FEES: ELDERLY, DISABLED, INACTIVE STATUS. (a) For purposes of this section, a person is disabled if the person has a mental or physical impairment that substantially limits the ability of the person to earn a living as an engineer or land surveyor, other than an impairment caused by a current addiction to the use of alcohol or an illegal drug or controlled substance.

(b) The board by rule may adopt reduced license fees and [~~annual~~] renewal fees for engineers and land surveyors who are:

(1) at least 65 years of age; or

(2) disabled and not actively engaged in the practice of engineering or land surveying.

(c) A person entitled to reduced fees under Subsection

(b)(2) shall notify the board that the person has resumed the active practice of engineering or land surveying not later than the 15th day after the date the person resumes active practice.

SECTION 1.19. Section 1001.207, Occupations Code, is amended to read as follows:

Sec. 1001.207. STANDARDS OF CONDUCT AND ETHICS. The board may establish standards of conduct and ethics for engineers and land surveyors in keeping with the purposes and intent of this chapter and Chapter 1071 and to ensure strict compliance with and enforcement of this chapter and Chapter 1071.

SECTION 1.20. The heading to Section 1001.208, Occupations Code, is amended to read as follows:

Sec. 1001.208. ROSTER OF ENGINEERS AND LAND SURVEYORS.

SECTION 1.21. Section 1001.209, Occupations Code, is amended to read as follows:

Sec. 1001.209. REGISTER OF APPLICANTS. The board shall maintain a register of each application for a license or registration under this chapter or Chapter 1071 [~~applications~~] that shows:

(1) the name, age, and residence of each applicant;

(2) the date of the application;

(3) the applicant's place of business;

(4) the applicant's educational and other qualifications;

(5) whether an examination was required;

(6) whether the applicant was issued or denied a license or registration;

(7) the date of board action; and

(8) any other information the board considers necessary.

SECTION 1.22. Section 1001.210, Occupations Code, is amended to read as follows:

Sec. 1001.210. CONTINUING EDUCATION PROGRAMS FOR ENGINEERS. (a) The board shall recognize, prepare, or administer continuing education programs for engineers [~~its license holders~~]. An engineer [~~A license holder~~] must participate in the programs to the extent required by the board to keep the engineer's [~~person's~~] license.

(b) The board may not require an engineer [~~a license holder~~] to obtain more than 15 hours of continuing education annually. The board shall permit an engineer [~~a license holder~~] to certify at the time the license is renewed that the engineer [~~license holder~~] has complied with the board's continuing education requirements.

(c) The board shall permit an engineer [~~a license holder~~] to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:

(1) successfully completing or auditing a course sponsored by an institution of higher education;

(2) successfully completing a course certified by a professional or trade organization;

(3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;

(4) participating in an in-house course sponsored by a

corporation or other business entity;

(5) teaching a course described by Subdivisions (1)-(4);

(6) publishing an article, paper, or book on the practice of engineering;

(7) making or attending a presentation at a meeting of a technical or engineering management society or organization or writing a paper presented at such a meeting;

(8) participating in the activities of a professional society or association, including serving on a committee of the organization; and

(9) engaging in self-directed study.

(d) An engineer [~~A license holder~~] may not receive more than five continuing education credit hours annually for engaging in self-directed study.

SECTION 1.23. Section 1001.212, Occupations Code, is amended to read as follows:

Sec. 1001.212. CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO [~~LICENSE~~] APPLICATION. (a) A statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for licensing, registration, or certification [~~a license~~] under this chapter or Chapter 1071 is privileged and confidential.

(b) Information described by Subsection (a) may be used only by the board or its employees or agents who are directly involved in the application or licensing, registration, or certification

process. The information is not subject to discovery, subpoena, or other disclosure.

SECTION 1.24. Section 1001.213(a), Occupations Code, is amended to read as follows:

(a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of a witness for examination under oath; and

(2) the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or Chapter 1071.

SECTION 1.25. Subchapter E, Chapter 1001, Occupations Code, is amended by adding Section 1001.216 to read as follows:

Sec. 1001.216. ADVISORY COMMITTEES. (a) The board shall appoint an advisory committee composed of five land surveyors for the purpose of providing advice and recommendations to the board on matters related to the regulation of land surveying.

(b) The board may not adopt a rule related to the scope of practice of, the professional or technical standards for, or the standards of conduct and ethics for land surveyors before considering advice and recommendations from the advisory committee described in Subsection (a).

(c) The board may appoint additional advisory committees to provide advice and recommendations to the board on any other matter relevant to the administration of this chapter or Chapter 1071.

SECTION 1.26. Section 1001.251(a), Occupations Code, is

amended to read as follows:

(a) The board shall prepare information of consumer interest describing:

(1) the regulatory functions of the board under this chapter and Chapter 1071; and

(2) the procedures by which consumer complaints are filed with and resolved by the board.

SECTION 1.27. Sections 1001.252(a) and (d), Occupations Code, are amended to read as follows:

(a) The board shall adopt rules that permit the board to receive and investigate a confidential complaint against a [~~license holder or other~~] person who may have violated this chapter or Chapter 1071. The board shall maintain the confidentiality of the complaint during the investigation.

(d) The board shall consider any written grievance against a [~~license holder or other~~] person filed with the board as a complaint.

SECTION 1.28. Chapter 1001, Occupations Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. GENERAL LICENSE, REGISTRATION, AND CERTIFICATION REQUIREMENT

Sec. 1001.271. DEFINITION. In this subchapter, "license" means a license, certification, registration, or other authorization that is issued by the board under this chapter or Chapter 1071.

SECTION 1.29. Section 1001.3035, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as

added by this Act, and redesignated as Section 1001.272, Occupations Code, to read as follows:

Sec. 1001.272 [~~1001.3035~~]. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.30. Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, is amended by adding Section 1001.2721 to read as follows:

Sec. 1001.2721. EXAMINATION DEVELOPMENT AND ADMINISTRATION. Notwithstanding any other law, the board may adopt, recognize, develop, or contract for an examination required by this chapter or Chapter 1071, including the administration of the examination.

SECTION 1.31. Section 1001.306, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Section 1001.273, Occupations Code, and amended to read as follows:

Sec. 1001.273 [~~1001.306~~]. EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an [~~a licensing~~] examination under this chapter or Chapter 1071, the board shall notify the person of the results of the examination.

(a-1) If the examination is graded or reviewed by a testing service:

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

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

(b) The board may require a testing service to notify a person of the results of the person's examination.

(c) If requested in writing by a person who fails an [~~a licensing~~] examination administered under this chapter or Chapter 1071, the board shall furnish the person with an analysis of the

person's performance on the examination.

(d) Examination results reported under this section must include a numerical score and an indication of whether the person passed or failed the examination.

SECTION 1.32. Sections 1001.307 and 1001.352, Occupations Code, are transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, and redesignated as Sections 1001.274 and 1001.275, Occupations Code, respectively, to read as follows:

Sec. 1001.274 [~~1001.307~~]. REEXAMINATION. The board may permit reexamination of an applicant on payment of an appropriate reexamination fee in an amount set by the board.

Sec. 1001.275 [~~1001.352~~]. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

SECTION 1.33. Sections 1001.353 and 1001.3535, Occupations Code, are transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Sections 1001.276 and 1001.277, Occupations Code, respectively, and amended to read as follows:

Sec. 1001.276 [~~1001.353~~]. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required [~~annual~~] renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required [~~annual~~] renewal fee and a late renewal fee.

(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the board the required [~~annual~~] renewal fee and a late renewal fee for each delinquent year or part of a year.

(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

Sec. 1001.277 [~~1001.3535~~]. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license [~~issued under this chapter~~] shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 1001.272 [~~1001.3035~~].

(b) The board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 1001.272 [~~1001.3035~~] for the initial issuance of the license; or

(2) this section as part of a prior license renewal.

SECTION 1.34. Section 1001.354, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as

added by this Act, and redesignated as Section 1001.278, Occupations Code, to read as follows:

Sec. 1001.278 [~~1001.354~~]. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination.

(b) The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

SECTION 1.35. Section 1001.355, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Section 1001.279, Occupations Code, and amended to read as follows:

Sec. 1001.279 [~~1001.355~~]. INACTIVE STATUS. (a) An engineer or land surveyor may request inactive status at any time. An engineer or land surveyor [~~A license holder~~] on inactive status may not practice engineering or land surveying, as applicable.

(b) An engineer or land surveyor [~~A license holder~~] on inactive status must pay a [~~an annual~~] fee in an amount and at times prescribed [~~set~~] by the board.

(c) An engineer or land surveyor [~~A license holder~~] on inactive status is not required to:

(1) comply with the continuing education requirements adopted by the board under Section 1001.210 or 1071.305, as applicable; or

(2) take an examination for reinstatement to active status.

(d) To return to active status, an engineer or land surveyor [~~a license holder~~] on inactive status must:

(1) file with the board a written notice requesting reinstatement to active status;

(2) pay the fee for the [~~annual~~] renewal of the license; and

(3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements adopted by the board under Section 1001.210 or 1071.305, as applicable.

SECTION 1.36. The heading to Subchapter G, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER G. ENGINEERING LICENSE REQUIREMENTS

SECTION 1.37. Section 1001.305, Occupations Code, is amended to read as follows:

Sec. 1001.305. WAIVER OF EXAMINATION REQUIREMENT. The board by rule may waive all or part of the examination requirement for an applicant for the issuance or reissuance of a license under this chapter. The board may not waive the requirement unless the board first determines that:

(1) the applicant possesses sufficient qualifications to justify the waiver; and

(2) issuing or reissuing the license to the applicant does not pose a threat to the public health, safety, or welfare.

SECTION 1.38. Section 1001.311, Occupations Code, is amended to read as follows:

Sec. 1001.311. APPLICATION BY NONRESIDENT. (a) A person

who holds a license or certificate of registration issued by another state or a foreign country may apply under this chapter for a license in this state.

(b) The board may waive any prerequisite to obtaining a license under this chapter for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

SECTION 1.39. Section 1001.312, Occupations Code, is amended to read as follows:

Sec. 1001.312. REPLACEMENT LICENSE. The board, subject to board rules, may issue a new license to replace a license issued under this chapter that is lost, destroyed, or mutilated.

SECTION 1.40. The heading to Subchapter H, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER H. ENGINEERING LICENSE RENEWAL

SECTION 1.41. Section 1001.452, Occupations Code, is amended to read as follows:

Sec. 1001.452. GROUNDS FOR DISCIPLINARY ACTION. A person is subject to disciplinary action under Section 1001.451 for:

(1) a violation of this chapter or a board rule adopted under this chapter;

(2) fraud or deceit in obtaining a license;

(3) a documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant;

(4) gross negligence, incompetency, or misconduct in

the practice of engineering; or

(5) a failure to timely provide plans or specifications to the Texas Department of Licensing and Regulation as required by Chapter 469, Government Code [~~Article 9102, Revised Statutes~~].

SECTION 1.42. Section 1001.501, Occupations Code, is amended to read as follows:

Sec. 1001.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person who violates this chapter or Chapter 1071 or a rule adopted or order issued under this chapter or Chapter 1071.

SECTION 1.43. Section 1001.502, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The amount of an administrative penalty may not exceed:

(1) $5,000 for each violation of this chapter or a rule adopted or order issued under this chapter; and

(2) $1,500 for each violation of Chapter 1071 or a rule adopted or order issued under Chapter 1071.

(a-1) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 1.44. Sections 1001.551(a) and (d), Occupations Code, are amended to read as follows:

(a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or Chapter 1071 or a board rule adopted under this chapter or Chapter 1071.

(d) In an action for an injunction under this section, the defendant may assert and prove as a complete defense to the action that the board deprived the defendant of a license, certificate, or registration by a board action or proceeding that was:

(1) arbitrary or capricious;

(2) contrary to law; or

(3) conducted without due process of law.

SECTION 1.45. Section 1001.5511, Occupations Code, is amended to read as follows:

Sec. 1001.5511. CEASE AND DESIST ORDER. If it appears to the board that a person who is not licensed, certified, or registered under this chapter or Chapter 1071 is violating this chapter or Chapter 1071, a rule adopted under this chapter or Chapter 1071, or another state statute or rule relating to the practice of engineering or land surveying, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 1.46. Section 1001.552(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) engages in the practice of engineering without being licensed or exempted from the licensing requirement under this chapter;

(2) violates this chapter with respect to the regulation of engineering;

(3) presents or attempts to use as the person's own the engineering license or seal of another; or

(4) gives false evidence of any kind to the board or a board member in obtaining an engineering [~~a~~] license.

SECTION 1.47. Section 1001.553, Occupations Code, is amended to read as follows:

Sec. 1001.553. REPORT OF VIOLATION. A public official shall report a violation of this chapter or Chapter 1071 to the proper authorities.

SECTION 1.48. Section 1001.554, Occupations Code, is amended to read as follows:

Sec. 1001.554. PRESENTATION OF COMPLAINTS BY BOARD; ASSISTANCE AT TRIAL. (a) A member of the board may present to a prosecuting officer a complaint relating to a violation of this chapter or Chapter 1071.

(b) The board through its members, officers, counsel, and agents and subject to the control of the prosecuting officer may assist in the trial of a case involving an alleged violation of this chapter or Chapter 1071.

SECTION 1.49. Section 1001.555(a), Occupations Code, is amended to read as follows:

(a) The attorney general shall:

(1) act as legal advisor of the board;

(2) provide legal assistance to the board as necessary to enforce this chapter or Chapter 1071 and make those laws [~~it~~] effective; and

(3) represent the board in an action brought to enforce this chapter or Chapter 1071.

SECTION 1.50. Section 1001.556, Occupations Code, is

amended to read as follows:

Sec. 1001.556. APPEAL BOND. The board is not required to give an appeal bond in a cause arising under this chapter or Chapter 1071.

SECTION 1.51. Section 1071.002(1), Occupations Code, is amended to read as follows:

(1) "Board" means the Texas Board of Professional Engineers and Land Surveyors [~~Surveying~~].

SECTION 1.52. Section 1071.254(a), Occupations Code, is amended to read as follows:

(a) An applicant for registration as a registered professional land surveyor must:

(1) hold a certificate as a surveyor-in-training;

(2) have at least two years of experience satisfactory to the board as a surveyor-in-training in performing surveying in delegated responsible charge as a subordinate to a surveyor registered or licensed to engage in the practice of surveying in this state or in another state having registration or licensing requirements equivalent to the requirements of this state; and

(3) [~~if the application is filed after January 1, 2003,~~] have earned an associate or [~~a~~] bachelor's degree from an accredited institution of higher education that included at least 16 [~~32~~] semester hours in a combination of courses acceptable to the board in:

(A) civil engineering;

(B) land surveying;

(C) mathematics;

(D) photogrammetry;

(E) forestry;

(F) land law; or

(G) the physical sciences.

SECTION 1.53. The heading to Section 1071.301, Occupations Code, is amended to read as follows:

Sec. 1071.301. LICENSE TERM AND [~~ANNUAL~~] RENEWAL [~~REQUIRED~~].

SECTION 1.54. Section 1071.301, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The board by rule shall provide:

(1) that each certificate of registration or license under this chapter is valid for a term of one year or two years; and

(2) for the renewal of the certificate or license.

(a-1) The board by rule may adopt a system under which certificates of registration and licenses expire on various dates during the year.

(a-2) For the year in which the certificate or license expiration date is changed, the board shall prorate certificate and license fees on a monthly basis so that each certificate or license holder pays only that portion of the certificate or license fee that is allocable to the number of months during which the certificate or license is valid. On renewal of the certificate or license on the new expiration date, the total certificate or license renewal fee is payable.

SECTION 1.55. Section 1071.352(a-2), Occupations Code, is

amended to read as follows:

(a-2) The board may refuse to issue or renew and may suspend or revoke the registration of a business entity and may impose an administrative penalty under Subchapter K, Chapter 1001, against the owner of a business entity for a violation of this chapter by an employee, agent, or other representative of the entity, including a registered professional land surveyor employed by the entity.

SECTION 1.56. Section 1071.401(a), Occupations Code, is amended to read as follows:

(a) The board shall revoke, suspend, or refuse to renew a certificate of registration or license, place on probation a person whose certificate or license has been suspended, or reprimand a registration holder or license holder for:

(1) fraud or deceit in obtaining a certificate or license under this chapter;

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

(3) a violation of this chapter or a board rule adopted under this chapter.

SECTION 1.57. Sections 1071.4035(a) and (b), Occupations Code, are amended to read as follows:

(a) The board by rule shall establish guidelines for an informal settlement conference related to a complaint filed with the board regarding conduct regulated under this chapter.

(b) Subject to Subsection (c), the board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal

settlement conference instead of or in addition to assessing an administrative penalty under Subchapter K, Chapter 1001 [~~this chapter~~].

SECTION 1.58. The following provisions of the Occupations Code are repealed:

(1) Section 1071.003;

(2) Subchapter B, Chapter 1071;

(3) Subchapter C, Chapter 1071;

(4) Subchapter D, Chapter 1071;

(5) Subchapter E, Chapter 1071;

(6) Section 1071.255(c);

(7) Section 1071.257;

(8) Section 1071.258;

(9) Section 1071.263;

(10) Section 1071.302;

(11) Section 1071.303;

(12) Sections 1071.402(b), (c), (d), (e), (f), and (g);

(13) Subchapter J, Chapter 1071;

(14) Section 1071.501;

(15) Section 1071.502; and

(16) Subchapter L, Chapter 1071.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 150.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) This section applies only to a licensed or registered professional who provides architectural or engineering services if

the services:

(1) are authorized, as appropriate for the professional, in:

(A) Chapter 1001, Occupations Code;

(B) Chapter 1051, Occupations Code;

(C) 22 T.A.C. Part 6 (Texas Board of Professional Engineers and Land Surveyors), Chapter 137 (Compliance and Professionalism); and

(D) 22 T.A.C. Part 1 (Texas Board of Architectural Examiners), Chapter 1 (Architects), Subchapter H (Professional Conduct);

(2) subject to Subsection (d), are provided voluntarily and without compensation or the expectation of compensation;

(3) are in response to and provided during the duration of a proclaimed state of emergency under Section 433.001, Government Code, or a declared state of disaster under Section 418.014, Government Code;

(4) are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster, including a law enforcement official, public safety official, or building inspection official; and

(5) are related to a structure, building, roadway, piping, or other system, either publicly or privately owned.

SECTION 2.02. Section 411.122(d), Government Code, is amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers and Land Surveyors;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) [~~Department of State~~] Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission [~~department~~], including:

(A) Texas State Board of Examiners of Marriage and Family Therapists;

(B) Texas State Board of Examiners of Professional Counselors; and

(C) Texas State Board of Social Worker Examiners;

(9) [~~Texas Board of Professional Land Surveying;~~

[~~(10)~~] Texas Department of Licensing and Regulation, except as provided by Section 411.093;

(10) [~~(11)~~] Texas Commission on Environmental Quality;

(11) [~~(12)~~] Texas Board of Occupational Therapy Examiners;

(12) [~~(13)~~] Texas Optometry Board;

(13) [~~(14)~~] Texas State Board of Pharmacy;

(14) [~~(15)~~] Texas Board of Physical Therapy Examiners;

(15) [~~(16)~~] Texas State Board of Plumbing Examiners;

(16) [~~(17) Texas State Board of Podiatric Medical Examiners;~~

[~~(18)~~] Texas State Board of Examiners of Psychologists;

(17) [~~(19)~~] Texas Real Estate Commission;

(18) [~~(20)~~] Texas Department of Transportation;

(19) [~~(21)~~] State Board of Veterinary Medical Examiners;

(20) [~~(22)~~] Texas Department of Housing and Community Affairs;

(21) [~~(23)~~] secretary of state;

(22) [~~(24)~~] state fire marshal;

(23) [~~(25)~~] Texas Education Agency;

(24) [~~(26)~~] Department of Agriculture; and

(25) [~~(27)~~] Texas Department of Motor Vehicles.

SECTION 2.03. Section 469.104, Government Code, is amended to read as follows:

Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS. The commission shall report to the Texas Board of Architectural Examiners, the Texas Board of Professional Engineers and Land Surveyors, or another appropriate licensing authority the failure of any architect, interior designer, landscape architect, or engineer to submit or resubmit in a timely manner plans and

specifications to the department as required by this subchapter.

SECTION 2.04. Section 472.001, Government Code, is amended to read as follows:

Sec. 472.001. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) the Texas State Board of Public Accountancy;

(2) the Texas Board of Professional Engineers and Land Surveyors; and

(3) the Texas Board of Architectural Examiners.

SECTION 2.05. Section 472.102(c), Government Code, is amended to read as follows:

(c) The Texas State Board of Public Accountancy shall annually remit $703,344 to the general revenue fund, the Texas Board of Professional Engineers and Land Surveyors shall annually remit $373,900 to the general revenue fund, and the Texas Board of Architectural Examiners shall annually remit $510,000 to the general revenue fund.

SECTION 2.06. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

(1) Texas Board of Chiropractic Examiners;

(2) Judicial Branch Certification Commission;

(3) State Board of Dental Examiners;

(4) Texas Funeral Service Commission;

(5) [~~Texas Board of Professional Land Surveying;~~

[~~(6)~~] Texas Medical Board;

(6) [~~(7)~~] Texas Board of Nursing;

(7) [~~(8)~~] Texas Optometry Board;

(8) [~~(9)~~] Department of Agriculture, for licenses issued under Chapter 1951, Occupations Code;

(9) [~~(10)~~] Texas State Board of Pharmacy;

(10) [~~(11)~~] Executive Council of Physical Therapy and Occupational Therapy Examiners;

(11) [~~(12)~~] Texas State Board of Plumbing Examiners;

(12) [~~(13) Texas State Board of Podiatric Medical Examiners;~~

[~~(14)~~] Texas State Board of Examiners of Psychologists;

(13) [~~(15)~~] State Board of Veterinary Medical Examiners;

(14) [~~(16)~~] Texas Real Estate Commission;

(15) [~~(17)~~] Texas Appraiser Licensing and Certification Board;

(16) [~~(18)~~] Texas Department of Licensing and Regulation;

(17) [~~(19)~~] Texas State Board of Public Accountancy;

(18) [~~(20)~~] State Board for Educator Certification;

(19) [~~(21)~~] Texas Board of Professional Engineers and Land Surveyors;

(20) [~~(22) Department of State~~] Health and Human Services Commission;

(21) [~~(23)~~] Texas Board of Architectural Examiners;

(22) [~~(24)~~] Texas Racing Commission;

(23) [~~(25)~~] Texas Commission on Law Enforcement; and

(24) [~~(26)~~] Texas Private Security Board.

SECTION 2.07. Section 2166.202(b), Government Code, is amended to read as follows:

(b) The commission, in consultation with the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers and Land Surveyors, shall adopt by rule criteria to evaluate the competence and qualifications of a prospective private design professional.

SECTION 2.08. Section 361.901(6), Health and Safety Code, is amended to read as follows:

(6) "Licensed professional engineer" means a person licensed as an engineer by the Texas Board of Professional Engineers and Land Surveyors.

SECTION 2.09. Section 366.071(c), Health and Safety Code, is amended to read as follows:

(c) A person who conducts preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system must hold a license issued by the commission under Chapter 37, Water Code, unless the person is licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer.

SECTION 2.10. Sections 2210.2515(c) and (d), Insurance Code, are amended to read as follows:

(c) A person may apply to the association on a form prescribed by the department for a certificate of compliance for a

completed improvement. The association shall issue a certificate of compliance for a completed improvement if a professional engineer licensed by the Texas Board of Professional Engineers and Land Surveyors:

(1) has designed the improvement, has affixed the engineer's seal on the design, and submits to the association on a form prescribed by the department an affirmation of compliance with the applicable building code under the plan of operation; or

(2) completes a sealed post-construction evaluation report that confirms compliance with the applicable building code under the plan of operation.

(d) A person may apply to the department on a form prescribed by the department for a certificate of compliance for an ongoing improvement. Except as provided by Subsection (e), the department shall issue a certificate of compliance for an ongoing improvement if a qualified inspector under Section 2210.254 inspects the ongoing improvement in accordance with commissioner rule and affirms that the improvement:

(1) conforms to a design of the improvement that has a seal affixed by a professional engineer licensed by the Texas Board of Professional Engineers and Land Surveyors and complies with the applicable building code under the plan of operation; or

(2) complies with the applicable building code under the plan of operation.

SECTION 2.11. Section 89.023(a), Natural Resources Code, is amended to read as follows:

(a) The commission may grant an extension of the deadline

for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes:

(1) an affirmation that complies with Section 89.029;

(2) a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right to operate the well; and

(3) at least one of the following:

(A) documentation that since the preceding date that the operator's organization report was required to be renewed the operator has plugged, or restored to active operation as defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B) an abeyance of plugging report on a form approved by the commission that:

(i) is in the form of a certification signed by a person licensed by the Texas Board of Professional Engineers <u>and Land Surveyors as an engineer</u> or <u>by</u> the Texas Board of Professional Geoscientists;

(ii) includes:

(a) an affirmation by the licensed person that the well has:

(1) a reasonable expectation of economic value in excess of the cost of plugging the well for the

duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2) a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b) appropriate documentation demonstrating the basis for the affirmation of the well's future utility; and

(iii) specifies the field and the covered wells within that field in a format prescribed by the commission;

(C) a statement that the well is part of an enhanced oil recovery project;

(D) if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted;

(E) a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:

(i) complies with the requirements of Chapter 91; and

(ii) is of an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application;

(F) documentation of the deposit with the commission each time the operator files an application of an amount of escrow funds as prescribed by commission rule that equal at least 10 percent of the total cost calculation for plugging an inactive well for each well specified in the application; or

(G) if the operator is a publicly traded entity:

(i) the following documents:

(a) a copy of the operator's federal documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations; and

(b) an original, executed Uniform Commercial Code Form 1 Financing Statement, filed with the secretary of state, that:

(1) names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor"; and

(2) specifies the funds covered by the documents described by Sub-subparagraph (a) in the amount of the cost calculation for plugging an inactive well for each well specified in the application; or

(ii) a blanket bond in the amount of the lesser of:

(a) the cost calculation for plugging any inactive wells; or

(b) $2 million.

SECTION 2.12. Section 1002.004(j), Occupations Code, is

amended to read as follows:

(j) The board and the Texas Board of Professional Engineers and Land Surveyors by rule, memorandum of understanding, or other appropriate procedure or document shall jointly resolve any conflict between this chapter or a rule adopted under this chapter and Chapter 1001 or a rule adopted under that chapter.

SECTION 2.13. Sections 1051.607(b), (g), and (h), Occupations Code, are amended to read as follows:

(b) An engineer may not engage or offer to engage in the practice of architecture unless:

(1) the engineer is listed under Subsection (a); and

(2) the engineer is in good standing with the Texas Board of Professional Engineers and Land Surveyors.

(g) The board and the Texas Board of Professional Engineers and Land Surveyors shall pay equally the costs of a contested case.

(h) The Texas Board of Professional Engineers and Land Surveyors has exclusive regulatory oversight over an engineer listed under Subsection (a).

SECTION 2.14. Section 223.151, Transportation Code, is amended to read as follows:

Sec. 223.151. APPLICABILITY. This subchapter:

(1) applies to services of a technical expert, including an archeologist, biologist, geologist, or historian, to conduct an environmental or cultural assessment required by state or federal law for a transportation project under the authority or jurisdiction of the department; and

(2) does not apply to services defined as engineering

by the Texas Board of Professional Engineers and Land Surveyors under Chapter 1001, Occupations Code.

SECTION 2.15. Section 26.3573(u), Water Code, is amended to read as follows:

(u) The petroleum storage tank remediation account may not be used to pay for a site remediation that involves the installation or construction of on-site equipment, structures, or systems used in the extraction or management of wastes, except for soil excavation and landfill disposal or well sampling and monitoring, unless:

(1) the plans and specifications for the equipment, structures, or systems are sealed by an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors; and

(2) the equipment, structures, or systems are constructed under the supervision of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors.

SECTION 2.16. Sections 26.364(b), (c), and (e), Water Code, are amended to read as follows:

(b) The commission, on the request of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors, shall register the engineer in the program.

(c) An engineer registered in the program may contract to perform corrective action under this subchapter unless the Texas Board of Professional Engineers and Land Surveyors determines the engineer is not qualified to perform a corrective action.

(e) The commission may not adopt minimum qualifications for an engineer licensed by the Texas Board of Professional Engineers

and Land Surveyors to contract with an eligible owner or operator to perform a corrective action under this subchapter.

SECTION 2.17. Sections 26.366(b), (c), and (e), Water Code, are amended to read as follows:

(b) The commission, on the request of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors, shall license the engineer in the program.

(c) An engineer licensed in the program may supervise a corrective action under this subchapter unless the Texas Board of Professional Engineers and Land Surveyors determines the engineer is not qualified to supervise a corrective action.

(e) The commission may not adopt minimum qualifications for an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors to supervise a corrective action under this subchapter.

ARTICLE 3. TRANSITIONS AND EFFECTIVE DATE

SECTION 3.01. (a) The Texas Board of Professional Land Surveying is abolished but continues in existence until September 1, 2020, for the sole purpose of transferring obligations, property, rights, powers, and duties to the Texas Board of Professional Engineers and Land Surveyors as created by this Act. The Texas Board of Professional Engineers and Land Surveyors assumes all of the obligations, property, rights, powers, and duties of the Texas Board of Professional Land Surveying as they exist immediately before the effective date of this Act. All unexpended funds appropriated to the Texas Board of Professional Land Surveying are transferred to the Texas Board of Professional

Engineers and Land Surveyors.

(b) The Texas Board of Professional Engineers and Land Surveyors and the Texas Board of Professional Land Surveying shall, in consultation with appropriate state entities, ensure that the transfer of the obligations, property, rights, powers, and duties of the Texas Board of Professional Land Surveying to the Texas Board of Professional Engineers and Land Surveyors is completed not later than September 1, 2020.

(c) All rules of the Texas Board of Professional Land Surveying are continued in effect as rules of the Texas Board of Professional Engineers and Land Surveyors until superseded by a rule of the Texas Board of Professional Engineers and Land Surveyors. A certificate, license, registration, or other authorization issued by the Texas Board of Professional Land Surveying is continued in effect as provided by the law in effect immediately before the effective date of this Act. An application for a certificate, license, registration, or other authorization pending on the effective date of this Act is continued without change in status after the effective date of this Act. A complaint, investigation, contested case, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act.

SECTION 3.02. The change in law made by this Act to Section 1001.101, Occupations Code, does not affect the entitlement of a member serving on the Texas Board of Professional Engineers immediately before the effective date of this Act to continue to serve for the remainder of the member's term. As the terms of board

members expire, the governor shall appoint or reappoint members to the Texas Board of Professional Engineers and Land Surveyors who have the qualifications required for members under Sections 1001.101 and 1001.102, Occupations Code, as amended by this Act.

SECTION 3.03. (a) Except as provided by Subsection (b) of this section, Section 1001.112, Occupations Code, as amended by this Act, applies to a member of the Texas Board of Professional Engineers and Land Surveyors appointed before, on, or after the effective date of this Act.

(b) A member of a board who, before the effective date of this Act, completed the training program required by Section 1001.112, Occupations Code, as that section existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training program. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after September 1, 2020, until the member completes the additional training.

SECTION 3.04. Section 1071.254(a), Occupations Code, as amended by this Act, applies only to an application for registration as a registered professional land surveyor that is filed on or after the effective date of this Act. An application for a registration that was filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 3.05. To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session,

2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.06. This Act takes effect September 1, 2019.

ADOPTED

MAY 20 2019

Secretary of the Senate

By: Buckingham H.B. No. 1523

Substitute the following for __.B. No. _____:

By: Nichols C.S.H.B. No. 1523

A BILL TO BE ENTITLED

AN ACT

relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.

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

ARTICLE 1. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION 1.01. The heading to Chapter 1001, Occupations Code, is amended to read as follows:

CHAPTER 1001. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION 1.02. Section 1001.002, Occupations Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Board" means the Texas Board of Professional Engineers and Land Surveyors.

(3) "Land surveyor," "licensed state land surveyor," "professional surveying," "registered professional land surveyor," and "state land surveying" have the meanings assigned by Section 1071.002.

SECTION 1.03. Section 1001.004(e), Occupations Code, is amended to read as follows:

(e) This chapter does not:

(1) prevent a person from identifying the person in the name and trade of any engineers' labor organization with which the person is affiliated;

(2) prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board's disciplinary powers under Subchapter J regarding negligence, incompetency, or misconduct in the practice of engineering; or

(3) [~~repeal or amend a law affecting or regulating a licensed state land surveyor; or~~

[~~(4)~~] affect or prevent the practice of any other legally recognized profession by a member of the profession who is licensed by the state or under the state's authority.

SECTION 1.04. Section 1001.005, Occupations Code, is amended to read as follows:

Sec. 1001.005. APPLICATION OF SUNSET ACT. The Texas Board of Professional Engineers and Land Surveyors 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.

SECTION 1.05. Section 1001.064, Occupations Code, is amended to read as follows:

Sec. 1001.064. STATE LAND SURVEYORS. A licensed state land surveyor is exempt from the requirements of this chapter regulating the practice of engineering in performing the [~~a~~] state land surveyor's duties.

SECTION 1.06. The heading to Subchapter C, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER C. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION 1.07. Section 1001.101(a), Occupations Code, is amended to read as follows:

(a) The Texas Board of Professional Engineers and Land Surveyors consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) five [~~six~~] engineers; [~~and~~]

(2) one land surveyor; and

(3) three members who represent the public.

SECTION 1.08. Subchapter C, Chapter 1001, Occupations Code, is amended by adding Section 1001.1011 to read as follows:

Sec. 1001.1011. EX OFFICIO MEMBER. The commissioner of the General Land Office or a licensed state land surveyor employee of the General Land Office designated by the commissioner as director of surveying shall serve as an ex officio, nonvoting member of the board.

SECTION 1.09. Section 1001.102, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of engineering or land surveying;

(2) is employed by or participates in the management

of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(d) A land surveyor member of the board:

(1) must be:

(A) a licensed state land surveyor actively engaged in the practice of state land surveying for not less than the five years preceding appointment; or

(B) a registered professional land surveyor actively engaged in the practice of professional surveying in this state for not less than the five years preceding appointment; and

(2) may not be licensed as an engineer.

SECTION 1.10. Section 1001.103(a-1), Occupations Code, is amended to read as follows:

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

(1) the person is an officer, employee, or paid

consultant of a Texas trade association in the field of engineering or land surveying; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of engineering or land surveying.

SECTION 1.11. Section 1001.105, Occupations Code, is amended to read as follows:

Sec. 1001.105. PARTICIPATION OF PUBLIC MEMBERS. (a) The board by majority vote may limit the participation of public members in evaluating license, registration, or certification applications.

(b) This section does not apply to the evaluation of license, registration, or certification applications at an official meeting of the board.

SECTION 1.12. Section 1001.107, Occupations Code, is amended to read as follows:

Sec. 1001.107. PER DIEM. Each [~~A~~] board member, other than the commissioner of the General Land Office, is entitled to receive a per diem as set by the General Appropriations Act for each day that the member engages in the business of the board.

SECTION 1.13. Section 1001.112(b), Occupations Code, is amended to read as follows:

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

(1) this chapter and Chapter 1071;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

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

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

SECTION 1.14. Section 1001.201, Occupations Code, is amended to read as follows:

Sec. 1001.201. GENERAL POWERS AND DUTIES. (a) The board shall administer and enforce this chapter <u>and Chapter 1071</u>.

(b) The board may spend money for any purpose the board considers reasonably necessary for the proper performance of its duties under this chapter <u>and Chapter 1071</u>.

SECTION 1.15. Section 1001.202, Occupations Code, is amended to read as follows:

Sec. 1001.202. RULES. The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its

proceedings, and regulate the practice of engineering and land surveying.

SECTION 1.16. Sections 1001.203(b) and (c), Occupations Code, are amended to read as follows:

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board [~~license holder~~] except to prohibit false, misleading, or deceptive practices.

(c) In its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of the person's [~~a license holder's~~] personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person [~~license holder~~]; or

(4) restricts the person's [~~license holder's~~] advertisement under a trade name.

SECTION 1.17. Section 1001.204, Occupations Code, is amended to read as follows:

Sec. 1001.204. FEES. (a) The board shall establish [~~the following~~] fees in amounts reasonable and necessary to cover the costs of administering this chapter and Chapter 1071, including:

(1) license, registration, and certification fees [~~fee~~];

(2) renewal fee [~~annual~~] and late renewal fee [~~fees~~];

(3) reciprocal license fee;

(4) duplicate license fee;

(5) [~~engineer-in-training certificate fee;~~

[~~(6)~~] roster [~~of engineers~~] fee;

(6) [~~(7)~~] examination fee;

[~~(8) registration fee for engineering firm;~~] and

(7) [~~(9)~~] inactive status fee.

(b) Fee revenue may not exceed the amount reasonable and necessary to administer this chapter and Chapter 1071.

(c) General revenue of the state may not be used to pay the costs of administering this chapter and Chapter 1071 in an amount that exceeds the amount of fees received under this chapter and Chapter 1071.

SECTION 1.18. Section 1001.205, Occupations Code, is amended to read as follows:

Sec. 1001.205. REDUCED FEES: ELDERLY, DISABLED, INACTIVE STATUS. (a) For purposes of this section, a person is disabled if the person has a mental or physical impairment that substantially limits the ability of the person to earn a living as an engineer or land surveyor, other than an impairment caused by a current addiction to the use of alcohol or an illegal drug or controlled substance.

(b) The board by rule may adopt reduced license fees and [~~annual~~] renewal fees for engineers and land surveyors who are:

(1) at least 65 years of age; or

(2) disabled and not actively engaged in the practice of engineering or land surveying.

(c) A person entitled to reduced fees under Subsection

(b)(2) shall notify the board that the person has resumed the active practice of engineering or land surveying not later than the 15th day after the date the person resumes active practice.

SECTION 1.19. Section 1001.207, Occupations Code, is amended to read as follows:

Sec. 1001.207. STANDARDS OF CONDUCT AND ETHICS. The board may establish standards of conduct and ethics for engineers and land surveyors in keeping with the purposes and intent of this chapter and Chapter 1071 and to ensure strict compliance with and enforcement of this chapter and Chapter 1071.

SECTION 1.20. The heading to Section 1001.208, Occupations Code, is amended to read as follows:

Sec. 1001.208. ROSTER OF ENGINEERS AND LAND SURVEYORS.

SECTION 1.21. Section 1001.209, Occupations Code, is amended to read as follows:

Sec. 1001.209. REGISTER OF APPLICANTS. The board shall maintain a register of each application for a license or registration under this chapter or Chapter 1071 [~~applications~~] that shows:

(1) the name, age, and residence of each applicant;

(2) the date of the application;

(3) the applicant's place of business;

(4) the applicant's educational and other qualifications;

(5) whether an examination was required;

(6) whether the applicant was issued or denied a license or registration;

(7) the date of board action; and

(8) any other information the board considers necessary.

SECTION 1.22. Section 1001.210, Occupations Code, is amended to read as follows:

Sec. 1001.210. CONTINUING EDUCATION PROGRAMS FOR ENGINEERS. (a) The board shall recognize, prepare, or administer continuing education programs for engineers [~~its license holders~~]. An engineer [~~A license holder~~] must participate in the programs to the extent required by the board to keep the engineer's [~~person's~~] license.

(b) The board may not require an engineer [~~a license holder~~] to obtain more than 15 hours of continuing education annually. The board shall permit an engineer [~~a license holder~~] to certify at the time the license is renewed that the engineer [~~license holder~~] has complied with the board's continuing education requirements.

(c) The board shall permit an engineer [~~a license holder~~] to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:

(1) successfully completing or auditing a course sponsored by an institution of higher education;

(2) successfully completing a course certified by a professional or trade organization;

(3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;

(4) participating in an in-house course sponsored by a

corporation or other business entity;

(5) teaching a course described by Subdivisions (1)-(4);

(6) publishing an article, paper, or book on the practice of engineering;

(7) making or attending a presentation at a meeting of a technical or engineering management society or organization or writing a paper presented at such a meeting;

(8) participating in the activities of a professional society or association, including serving on a committee of the organization; and

(9) engaging in self-directed study.

(d) An engineer [~~A license holder~~] may not receive more than five continuing education credit hours annually for engaging in self-directed study.

SECTION 1.23. Section 1001.212, Occupations Code, is amended to read as follows:

Sec. 1001.212. CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO [~~LICENSE~~] APPLICATION. (a) A statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for licensing, registration, or certification [~~a license~~] under this chapter or Chapter 1071 is privileged and confidential.

(b) Information described by Subsection (a) may be used only by the board or its employees or agents who are directly involved in the application or licensing, registration, or certification

process. The information is not subject to discovery, subpoena, or other disclosure.

SECTION 1.24. Section 1001.213(a), Occupations Code, is amended to read as follows:

(a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of a witness for examination under oath; and

(2) the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or Chapter 1071.

SECTION 1.25. Subchapter E, Chapter 1001, Occupations Code, is amended by adding Section 1001.216 to read as follows:

Sec. 1001.216. ADVISORY COMMITTEE. The board may appoint an advisory committee to provide advice and recommendations to the board on any matter relevant to the administration of this chapter or Chapter 1071.

SECTION 1.26. Section 1001.251(a), Occupations Code, is amended to read as follows:

(a) The board shall prepare information of consumer interest describing:

(1) the regulatory functions of the board under this chapter and Chapter 1071; and

(2) the procedures by which consumer complaints are filed with and resolved by the board.

SECTION 1.27. Sections 1001.252(a) and (d), Occupations

Code, are amended to read as follows:

(a) The board shall adopt rules that permit the board to receive and investigate a confidential complaint against a [~~license holder or other~~] person who may have violated this chapter or Chapter 1071. The board shall maintain the confidentiality of the complaint during the investigation.

(d) The board shall consider any written grievance against a [~~license holder or other~~] person filed with the board as a complaint.

SECTION 1.28. Chapter 1001, Occupations Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. GENERAL LICENSE, REGISTRATION, AND CERTIFICATION REQUIREMENT

Sec. 1001.271. DEFINITION. In this subchapter, "license" means a license, certification, registration, or other authorization that is issued by the board under this chapter or Chapter 1071.

SECTION 1.29. Section 1001.3035, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Section 1001.272, Occupations Code, and amended to read as follows:

Sec. 1001.272 [~~1001.3035~~]. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) This section applies only to an applicant for a license or registration as an engineer, licensed state land surveyor, or registered professional land surveyor.

(b) The board shall require that an applicant for a license

submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(c) [~~(b)~~] The board may not issue a license to a person who does not comply with the requirement of Subsection (b) [~~(a)~~].

(d) [~~(c)~~] The board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(e) [~~(d)~~] The board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.30. Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, is amended by adding Section 1001.2721 to read as follows:

Sec. 1001.2721. EXAMINATION DEVELOPMENT AND ADMINISTRATION. Notwithstanding any other law, the board may adopt, recognize, develop, or contract for an examination required by this chapter or Chapter 1071, including the administration of

the examination.

SECTION 1.31. Section 1001.306, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Section 1001.273, Occupations Code, and amended to read as follows:

Sec. 1001.273 [~~1001.306~~]. EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an [~~a licensing~~] examination under this chapter or Chapter 1071, the board shall notify the person of the results of the examination.

(a-1) If the examination is graded or reviewed by a testing service:

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

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

(b) The board may require a testing service to notify a person of the results of the person's examination.

(c) If requested in writing by a person who fails an [~~a licensing~~] examination administered under this chapter or Chapter 1071, the board shall furnish the person with an analysis of the person's performance on the examination.

(d) Examination results reported under this section must include a numerical score and an indication of whether the person passed or failed the examination.

SECTION 1.32. Sections 1001.307 and 1001.352, Occupations Code, are transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, and redesignated as Sections 1001.274 and 1001.275, Occupations Code, respectively, to read as follows:

Sec. 1001.274 [~~1001.307~~]. REEXAMINATION. The board may permit reexamination of an applicant on payment of an appropriate reexamination fee in an amount set by the board.

Sec. 1001.275 [~~1001.352~~]. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

SECTION 1.33. Sections 1001.353 and 1001.3535, Occupations Code, are transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Sections 1001.276 and 1001.277, Occupations Code, respectively, and amended to read as follows:

Sec. 1001.276 [~~1001.353~~]. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required [~~annual~~] renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required [~~annual~~] renewal fee and a late renewal fee.

(c) A person whose license has been expired for more than 90

days but less than two years may renew the license by paying to the board the required [~~annual~~] renewal fee and a late renewal fee for each delinquent year or part of a year.

(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

Sec. 1001.277 [~~1001.3535~~]. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) This section applies only to an applicant for renewal of a license or registration as an engineer, licensed state land surveyor, or registered professional land surveyor.

(b) An applicant renewing a license [~~issued under this chapter~~] shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 1001.272 [~~1001.3035~~].

(c) [~~(b)~~] The board may not renew the license of a person who does not comply with the requirement of Subsection (b) [~~(a)~~].

(d) [~~(c)~~] A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 1001.272 [~~1001.3035~~] for the initial issuance of the license; or

(2) this section as part of a prior license renewal.

SECTION 1.34. Section 1001.354, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, and redesignated as Section 1001.278,

Occupations Code, to read as follows:

Sec. 1001.278 [~~1001.354~~]. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination.

(b) The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

SECTION 1.35. Section 1001.355, Occupations Code, is transferred to Subchapter F-1, Chapter 1001, Occupations Code, as added by this Act, redesignated as Section 1001.279, Occupations Code, and amended to read as follows:

Sec. 1001.279 [~~1001.355~~]. INACTIVE STATUS. (a) An engineer or land surveyor may request inactive status at any time. An engineer or land surveyor [~~A license holder~~] on inactive status may not practice engineering or land surveying, as applicable.

(b) An engineer or land surveyor [~~A license holder~~] on inactive status must pay a [~~an annual~~] fee in an amount and at times prescribed [~~set~~] by the board.

(c) An engineer or land surveyor [~~A license holder~~] on inactive status is not required to:

(1) comply with the continuing education requirements adopted by the board under Section 1001.210 or 1071.305, as applicable; or

(2) take an examination for reinstatement to active status.

(d) To return to active status, an engineer or land surveyor

[~~a license holder~~] on inactive status must:

(1) file with the board a written notice requesting reinstatement to active status;

(2) pay the fee for the [~~annual~~] renewal of the license; and

(3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements adopted by the board under Section 1001.210 or 1071.305, as applicable.

SECTION 1.36. The heading to Subchapter G, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER G. ENGINEERING LICENSE REQUIREMENTS

SECTION 1.37. Section 1001.305, Occupations Code, is amended to read as follows:

Sec. 1001.305. WAIVER OF EXAMINATION REQUIREMENT. The board by rule may waive all or part of the examination requirement for an applicant for the issuance or reissuance of a license under this chapter. The board may not waive the requirement unless the board first determines that:

(1) the applicant possesses sufficient qualifications to justify the waiver; and

(2) issuing or reissuing the license to the applicant does not pose a threat to the public health, safety, or welfare.

SECTION 1.38. Section 1001.311, Occupations Code, is amended to read as follows:

Sec. 1001.311. APPLICATION BY NONRESIDENT. (a) A person who holds a license or certificate of registration issued by

another state or a foreign country may apply under this chapter for a license in this state.

(b) The board may waive any prerequisite to obtaining a license under this chapter for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

SECTION 1.39. Section 1001.312, Occupations Code, is amended to read as follows:

Sec. 1001.312. REPLACEMENT LICENSE. The board, subject to board rules, may issue a new license to replace a license issued under this chapter that is lost, destroyed, or mutilated.

SECTION 1.40. The heading to Subchapter H, Chapter 1001, Occupations Code, is amended to read as follows:

SUBCHAPTER H. ENGINEERING LICENSE RENEWAL

SECTION 1.41. Section 1001.452, Occupations Code, is amended to read as follows:

Sec. 1001.452. GROUNDS FOR DISCIPLINARY ACTION. A person is subject to disciplinary action under Section 1001.451 for:

(1) a violation of this chapter or a board rule adopted under this chapter;

(2) fraud or deceit in obtaining a license;

(3) a documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant;

(4) gross negligence, incompetency, or misconduct in the practice of engineering; or

(5) a failure to timely provide plans or specifications to the Texas Department of Licensing and Regulation as required by Chapter 469, Government Code [~~Article 9102, Revised Statutes~~].

SECTION 1.42. Section 1001.501, Occupations Code, is amended to read as follows:

Sec. 1001.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person who violates this chapter or Chapter 1071 or a rule adopted or order issued under this chapter or Chapter 1071.

SECTION 1.43. Section 1001.502, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The amount of an administrative penalty may not exceed:

(1) $5,000 for each violation of this chapter or a rule adopted or order issued under this chapter; and

(2) $1,500 for each violation of Chapter 1071 or a rule adopted or order issued under Chapter 1071.

(a-1) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 1.44. Sections 1001.551(a) and (d), Occupations Code, are amended to read as follows:

(a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or Chapter 1071 or a board rule adopted under this chapter or Chapter 1071.

(d) In an action for an injunction under this section, the

defendant may assert and prove as a complete defense to the action that the board deprived the defendant of a license, certificate, or registration by a board action or proceeding that was:

(1) arbitrary or capricious;

(2) contrary to law; or

(3) conducted without due process of law.

SECTION 1.45. Section 1001.5511, Occupations Code, is amended to read as follows:

Sec. 1001.5511. CEASE AND DESIST ORDER. If it appears to the board that a person who is not licensed, certified, or registered under this chapter or Chapter 1071 is violating this chapter or Chapter 1071, a rule adopted under this chapter or Chapter 1071, or another state statute or rule relating to the practice of engineering or land surveying, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 1.46. Section 1001.552(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) engages in the practice of engineering without being licensed or exempted from the licensing requirement under this chapter;

(2) violates this chapter with respect to the regulation of engineering;

(3) presents or attempts to use as the person's own the engineering license or seal of another; or

(4) gives false evidence of any kind to the board or a

board member in obtaining an engineering [~~a~~] license.

SECTION 1.47. Section 1001.553, Occupations Code, is amended to read as follows:

Sec. 1001.553. REPORT OF VIOLATION. A public official shall report a violation of this chapter or Chapter 1071 to the proper authorities.

SECTION 1.48. Section 1001.554, Occupations Code, is amended to read as follows:

Sec. 1001.554. PRESENTATION OF COMPLAINTS BY BOARD; ASSISTANCE AT TRIAL. (a) A member of the board may present to a prosecuting officer a complaint relating to a violation of this chapter or Chapter 1071.

(b) The board through its members, officers, counsel, and agents and subject to the control of the prosecuting officer may assist in the trial of a case involving an alleged violation of this chapter or Chapter 1071.

SECTION 1.49. Section 1001.555(a), Occupations Code, is amended to read as follows:

(a) The attorney general shall:

(1) act as legal advisor of the board;

(2) provide legal assistance to the board as necessary to enforce this chapter or Chapter 1071 and make those laws [~~it~~] effective; and

(3) represent the board in an action brought to enforce this chapter or Chapter 1071.

SECTION 1.50. Section 1001.556, Occupations Code, is amended to read as follows:

Sec. 1001.556. APPEAL BOND. The board is not required to give an appeal bond in a cause arising under this chapter or Chapter 1071.

SECTION 1.51. Section 1071.002(1), Occupations Code, is amended to read as follows:

(1) "Board" means the Texas Board of Professional Engineers and Land Surveyors [~~Surveying~~].

SECTION 1.52. Section 1071.254, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An applicant for registration as a registered professional land surveyor must:

(1) hold a certificate as a surveyor-in-training;

(2) have at least two years of experience satisfactory to the board as a surveyor-in-training in performing surveying in delegated responsible charge as a subordinate to a surveyor registered or licensed to engage in the practice of surveying in this state or in another state having registration or licensing requirements equivalent to the requirements of this state; and

(3) except as provided by Subsection (c) [~~if the application is filed after January 1, 2003~~], have earned a bachelor's degree from an accredited institution of higher education that included at least 32 semester hours in a combination of courses acceptable to the board in:

(A) civil engineering;

(B) land surveying;

(C) mathematics;

(D) photogrammetry;

(E) forestry;

(F) land law; or

(G) the physical sciences.

(c) The board by rule may authorize the waiver of the requirement that an applicant for registration as a registered professional land surveyor have a bachelor's degree if:

(1) the applicant has earned an associate degree from an accredited institution of higher education that included at least 32 semester hours in a combination of courses acceptable to the board in:

(A) civil engineering;

(B) land surveying;

(C) mathematics;

(D) photogrammetry;

(E) forestry;

(F) land law; or

(G) the physical sciences; and

(2) the board determines:

(A) the applicant possesses sufficient qualifications to justify the waiver; and

(B) the applicant's registration does not pose a threat to the public health, safety, or welfare.

SECTION 1.53. The heading to Section 1071.301, Occupations Code, is amended to read as follows:

Sec. 1071.301. LICENSE TERM AND [~~ANNUAL~~] RENEWAL [~~REQUIRED~~].

SECTION 1.54. Section 1071.301, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The board by rule shall provide:

(1) that each certificate of registration or license under this chapter is valid for a term of one year or two years; and

(2) for the renewal of the certificate or license.

(a-1) The board by rule may adopt a system under which certificates of registration and licenses expire on various dates during the year.

(a-2) For the year in which the certificate or license expiration date is changed, the board shall prorate certificate and license fees on a monthly basis so that each certificate or license holder pays only that portion of the certificate or license fee that is allocable to the number of months during which the certificate or license is valid. On renewal of the certificate or license on the new expiration date, the total certificate or license renewal fee is payable.

SECTION 1.55. Section 1071.352(a-2), Occupations Code, is amended to read as follows:

(a-2) The board may refuse to issue or renew and may suspend or revoke the registration of a business entity and may impose an administrative penalty under Subchapter K, Chapter 1001, against the owner of a business entity for a violation of this chapter by an employee, agent, or other representative of the entity, including a registered professional land surveyor employed by the entity.

SECTION 1.56. Section 1071.401(a), Occupations Code, is

amended to read as follows:

(a) The board shall revoke, suspend, or refuse to renew a certificate of registration or license, place on probation a person whose certificate or license has been suspended, or reprimand a registration holder or license holder for:

(1) fraud or deceit in obtaining a certificate or license under this chapter;

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

(3) a violation of this chapter or a board rule adopted under this chapter.

SECTION 1.57. Sections 1071.4035(a) and (b), Occupations Code, are amended to read as follows:

(a) The board by rule shall establish guidelines for an informal settlement conference related to a complaint filed with the board regarding conduct regulated under this chapter.

(b) Subject to Subsection (c), the board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to assessing an administrative penalty under Subchapter K, Chapter 1001 [~~this chapter~~].

SECTION 1.58. The following provisions of the Occupations Code are repealed:

(1) Section 1071.003;

(2) Subchapter B, Chapter 1071;

(3) Subchapter C, Chapter 1071;

(4) Subchapter D, Chapter 1071;

(5) Subchapter E, Chapter 1071;

(6) Section 1071.255(c);

(7) Section 1071.257;

(8) Section 1071.258;

(9) Section 1071.263;

(10) Section 1071.302;

(11) Section 1071.303;

(12) Sections 1071.402(b), (c), (d), (e), (f), and (g);

(13) Subchapter J, Chapter 1071;

(14) Section 1071.501;

(15) Section 1071.502; and

(16) Subchapter L, Chapter 1071.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 150.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) This section applies only to a licensed or registered professional who provides architectural or engineering services if the services:

(1) are authorized, as appropriate for the professional, in:

(A) Chapter 1001, Occupations Code;

(B) Chapter 1051, Occupations Code;

(C) 22 T.A.C. Part 6 (Texas Board of Professional Engineers <u>and Land Surveyors</u>), Chapter 137 (Compliance and Professionalism); and

(D) 22 T.A.C. Part 1 (Texas Board of Architectural Examiners), Chapter 1 (Architects), Subchapter H (Professional Conduct);

(2) subject to Subsection (d), are provided voluntarily and without compensation or the expectation of compensation;

(3) are in response to and provided during the duration of a proclaimed state of emergency under Section 433.001, Government Code, or a declared state of disaster under Section 418.014, Government Code;

(4) are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster, including a law enforcement official, public safety official, or building inspection official; and

(5) are related to a structure, building, roadway, piping, or other system, either publicly or privately owned.

SECTION 2.02. Section 411.122(d), Government Code, is amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers <u>and Land</u>

Surveyors;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) [~~Department of State~~] Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission [~~department~~], including:

(A) Texas State Board of Examiners of Marriage and Family Therapists;

(B) Texas State Board of Examiners of Professional Counselors; and

(C) Texas State Board of Social Worker Examiners;

(9) [~~Texas Board of Professional Land Surveying;~~

[~~(10)~~] Texas Department of Licensing and Regulation, except as provided by Section 411.093;

(10) [~~(11)~~] Texas Commission on Environmental Quality;

(11) [~~(12)~~] Texas Board of Occupational Therapy Examiners;

(12) [~~(13)~~] Texas Optometry Board;

(13) [~~(14)~~] Texas State Board of Pharmacy;

(14) [~~(15)~~] Texas Board of Physical Therapy Examiners;

(15) [~~(16)~~] Texas State Board of Plumbing Examiners;

(16) [~~(17) Texas State Board of Podiatric Medical Examiners;~~

[~~(18)~~] Texas State Board of Examiners of Psychologists;

(17) [~~(19)~~] Texas Real Estate Commission;

(18) [~~(20)~~] Texas Department of Transportation;

(19) [~~(21)~~] State Board of Veterinary Medical Examiners;

(20) [~~(22)~~] Texas Department of Housing and Community Affairs;

(21) [~~(23)~~] secretary of state;

(22) [~~(24)~~] state fire marshal;

(23) [~~(25)~~] Texas Education Agency;

(24) [~~(26)~~] Department of Agriculture; and

(25) [~~(27)~~] Texas Department of Motor Vehicles.

SECTION 2.03. Section 469.104, Government Code, is amended to read as follows:

Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS. The commission shall report to the Texas Board of Architectural Examiners, the Texas Board of Professional Engineers and Land Surveyors, or another appropriate licensing authority the failure of any architect, interior designer, landscape architect, or engineer to submit or resubmit in a timely manner plans and specifications to the department as required by this subchapter.

SECTION 2.04. Section 472.001, Government Code, is amended to read as follows:

Sec. 472.001. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) the Texas State Board of Public Accountancy;

(2) the Texas Board of Professional Engineers and Land Surveyors; and

(3) the Texas Board of Architectural Examiners.

SECTION 2.05. Section 472.102(c), Government Code, is amended to read as follows:

(c) The Texas State Board of Public Accountancy shall annually remit $703,344 to the general revenue fund, the Texas Board of Professional Engineers and Land Surveyors shall annually remit $373,900 to the general revenue fund, and the Texas Board of Architectural Examiners shall annually remit $510,000 to the general revenue fund.

SECTION 2.06. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

(1) Texas Board of Chiropractic Examiners;

(2) Judicial Branch Certification Commission;

(3) State Board of Dental Examiners;

(4) Texas Funeral Service Commission;

(5) [~~Texas Board of Professional Land Surveying;~~

[~~(6)~~] Texas Medical Board;

(6) [~~(7)~~] Texas Board of Nursing;

(7) [~~(8)~~] Texas Optometry Board;

(8) [~~(9)~~] Department of Agriculture, for licenses issued under Chapter 1951, Occupations Code;

(9) [~~(10)~~] Texas State Board of Pharmacy;

(10) [~~(11)~~] Executive Council of Physical Therapy and Occupational Therapy Examiners;

(11) [~~(12)~~] Texas State Board of Plumbing Examiners;

(12) [~~(13) Texas State Board of Podiatric Medical Examiners;~~

[~~(14)~~] Texas State Board of Examiners of Psychologists;

(13) [~~(15)~~] State Board of Veterinary Medical Examiners;

(14) [~~(16)~~] Texas Real Estate Commission;

(15) [~~(17)~~] Texas Appraiser Licensing and Certification Board;

(16) [~~(18)~~] Texas Department of Licensing and Regulation;

(17) [~~(19)~~] Texas State Board of Public Accountancy;

(18) [~~(20)~~] State Board for Educator Certification;

(19) [~~(21)~~] Texas Board of Professional Engineers and Land Surveyors;

(20) [~~(22) Department of State~~] Health and Human Services Commission;

(21) [~~(23)~~] Texas Board of Architectural Examiners;

(22) [~~(24)~~] Texas Racing Commission;

(23) [~~(25)~~] Texas Commission on Law Enforcement; and

(24) [~~(26)~~] Texas Private Security Board.

SECTION 2.07. Section 2166.202(b), Government Code, is amended to read as follows:

(b) The commission, in consultation with the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers and Land Surveyors, shall adopt by rule criteria to evaluate the competence and qualifications of a prospective private

design professional.

SECTION 2.08. Section 361.901(6), Health and Safety Code, is amended to read as follows:

(6) "Licensed professional engineer" means a person licensed as an engineer by the Texas Board of Professional Engineers and Land Surveyors.

SECTION 2.09. Section 366.071(c), Health and Safety Code, is amended to read as follows:

(c) A person who conducts preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system must hold a license issued by the commission under Chapter 37, Water Code, unless the person is licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer.

SECTION 2.10. Sections 2210.2515(c) and (d), Insurance Code, are amended to read as follows:

(c) A person may apply to the association on a form prescribed by the department for a certificate of compliance for a completed improvement. The association shall issue a certificate of compliance for a completed improvement if a professional engineer licensed by the Texas Board of Professional Engineers and Land Surveyors:

(1) has designed the improvement, has affixed the engineer's seal on the design, and submits to the association on a form prescribed by the department an affirmation of compliance with the applicable building code under the plan of operation; or

(2) completes a sealed post-construction evaluation report that confirms compliance with the applicable building code under the plan of operation.

(d) A person may apply to the department on a form prescribed by the department for a certificate of compliance for an ongoing improvement. Except as provided by Subsection (e), the department shall issue a certificate of compliance for an ongoing improvement if a qualified inspector under Section 2210.254 inspects the ongoing improvement in accordance with commissioner rule and affirms that the improvement:

(1) conforms to a design of the improvement that has a seal affixed by a professional engineer licensed by the Texas Board of Professional Engineers <u>and Land Surveyors</u> and complies with the applicable building code under the plan of operation; or

(2) complies with the applicable building code under the plan of operation.

SECTION 2.11. Section 89.023(a), Natural Resources Code, is amended to read as follows:

(a) The commission may grant an extension of the deadline for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes:

(1) an affirmation that complies with Section 89.029;

(2) a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right

to operate the well; and

(3) at least one of the following:

(A) documentation that since the preceding date that the operator's organization report was required to be renewed the operator has plugged, or restored to active operation as defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B) an abeyance of plugging report on a form approved by the commission that:

(i) is in the form of a certification signed by a person licensed by the Texas Board of Professional Engineers <u>and Land Surveyors as an engineer</u> or <u>by</u> the Texas Board of Professional Geoscientists;

(ii) includes:

(a) an affirmation by the licensed person that the well has:

(1) a reasonable expectation of economic value in excess of the cost of plugging the well for the duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2) a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b) appropriate documentation demonstrating the basis for the affirmation of the well's future

utility; and

(iii) specifies the field and the covered wells within that field in a format prescribed by the commission;

(C) a statement that the well is part of an enhanced oil recovery project;

(D) if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted;

(E) a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:

(i) complies with the requirements of Chapter 91; and

(ii) is of an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application;

(F) documentation of the deposit with the commission each time the operator files an application of an amount of escrow funds as prescribed by commission rule that equal at least 10 percent of the total cost calculation for plugging an inactive well for each well specified in the application; or

(G) if the operator is a publicly traded entity:

(i) the following documents:

(a) a copy of the operator's federal

documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations; and

(b) an original, executed Uniform Commercial Code Form 1 Financing Statement, filed with the secretary of state, that:

(1) names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor"; and

(2) specifies the funds covered by the documents described by Sub-subparagraph (a) in the amount of the cost calculation for plugging an inactive well for each well specified in the application; or

(ii) a blanket bond in the amount of the lesser of:

(a) the cost calculation for plugging any inactive wells; or

(b) $2 million.

SECTION 2.12. Section 1002.004(j), Occupations Code, is amended to read as follows:

(j) The board and the Texas Board of Professional Engineers <u>and Land Surveyors</u> by rule, memorandum of understanding, or other appropriate procedure or document shall jointly resolve any conflict between this chapter or a rule adopted under this chapter and Chapter 1001 or a rule adopted under that chapter.

SECTION 2.13. Sections 1051.607(b), (g), and (h), Occupations Code, are amended to read as follows:

(b) An engineer may not engage or offer to engage in the practice of architecture unless:

(1) the engineer is listed under Subsection (a); and

(2) the engineer is in good standing with the Texas Board of Professional Engineers and Land Surveyors.

(g) The board and the Texas Board of Professional Engineers and Land Surveyors shall pay equally the costs of a contested case.

(h) The Texas Board of Professional Engineers and Land Surveyors has exclusive regulatory oversight over an engineer listed under Subsection (a).

SECTION 2.14. Section 223.151, Transportation Code, is amended to read as follows:

Sec. 223.151. APPLICABILITY. This subchapter:

(1) applies to services of a technical expert, including an archeologist, biologist, geologist, or historian, to conduct an environmental or cultural assessment required by state or federal law for a transportation project under the authority or jurisdiction of the department; and

(2) does not apply to services defined as engineering by the Texas Board of Professional Engineers and Land Surveyors under Chapter 1001, Occupations Code.

SECTION 2.15. Section 26.3573(u), Water Code, is amended to read as follows:

(u) The petroleum storage tank remediation account may not be used to pay for a site remediation that involves the installation or construction of on-site equipment, structures, or systems used in the extraction or management of wastes, except for soil

excavation and landfill disposal or well sampling and monitoring, unless:

(1) the plans and specifications for the equipment, structures, or systems are sealed by an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors; and

(2) the equipment, structures, or systems are constructed under the supervision of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors.

SECTION 2.16. Sections 26.364(b), (c), and (e), Water Code, are amended to read as follows:

(b) The commission, on the request of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors, shall register the engineer in the program.

(c) An engineer registered in the program may contract to perform corrective action under this subchapter unless the Texas Board of Professional Engineers and Land Surveyors determines the engineer is not qualified to perform a corrective action.

(e) The commission may not adopt minimum qualifications for an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors to contract with an eligible owner or operator to perform a corrective action under this subchapter.

SECTION 2.17. Sections 26.366(b), (c), and (e), Water Code, are amended to read as follows:

(b) The commission, on the request of an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors, shall license the engineer in the program.

(c) An engineer licensed in the program may supervise a

corrective action under this subchapter unless the Texas Board of Professional Engineers and Land Surveyors determines the engineer is not qualified to supervise a corrective action.

(e) The commission may not adopt minimum qualifications for an engineer licensed by the Texas Board of Professional Engineers and Land Surveyors to supervise a corrective action under this subchapter.

ARTICLE 3. TRANSITIONS AND EFFECTIVE DATE

SECTION 3.01. (a) The Texas Board of Professional Land Surveying is abolished but continues in existence until September 1, 2020, for the sole purpose of transferring obligations, property, rights, powers, and duties to the Texas Board of Professional Engineers and Land Surveyors as created by this Act. The Texas Board of Professional Engineers and Land Surveyors assumes all of the obligations, property, rights, powers, and duties of the Texas Board of Professional Land Surveying as they exist immediately before the effective date of this Act. All unexpended funds appropriated to the Texas Board of Professional Land Surveying are transferred to the Texas Board of Professional Engineers and Land Surveyors.

(b) The Texas Board of Professional Engineers and Land Surveyors and the Texas Board of Professional Land Surveying shall, in consultation with appropriate state entities, ensure that the transfer of the obligations, property, rights, powers, and duties of the Texas Board of Professional Land Surveying to the Texas Board of Professional Engineers and Land Surveyors is completed not later than September 1, 2020.

(c) All rules of the Texas Board of Professional Land Surveying are continued in effect as rules of the Texas Board of Professional Engineers and Land Surveyors until superseded by a rule of the Texas Board of Professional Engineers and Land Surveyors. A certificate, license, registration, or other authorization issued by the Texas Board of Professional Land Surveying is continued in effect as provided by the law in effect immediately before the effective date of this Act. An application for a certificate, license, registration, or other authorization pending on the effective date of this Act is continued without change in status after the effective date of this Act. A complaint, investigation, contested case, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act.

SECTION 3.02. The change in law made by this Act to Section 1001.101, Occupations Code, does not affect the entitlement of a member serving on the Texas Board of Professional Engineers immediately before the effective date of this Act to continue to serve for the remainder of the member's term. As the terms of board members expire, the governor shall appoint or reappoint members to the Texas Board of Professional Engineers and Land Surveyors who have the qualifications required for members under Sections 1001.101 and 1001.102, Occupations Code, as amended by this Act.

SECTION 3.03. (a) Except as provided by Subsection (b) of this section, Section 1001.112, Occupations Code, as amended by this Act, applies to a member of the Texas Board of Professional Engineers and Land Surveyors appointed before, on, or after the

effective date of this Act.

(b) A member of a board who, before the effective date of this Act, completed the training program required by Section 1001.112, Occupations Code, as that section existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training program. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after September 1, 2020, until the member completes the additional training.

SECTION 3.04. Sections 1001.272 and 1001.277, Occupations Code, as transferred, redesignated, and amended by this Act, with respect to an application for a license or registration or renewal of a license or registration for a registered professional land surveyor or licensed state land surveyor, apply only to an application filed with the Texas Board of Professional Engineers and Land Surveyors on or after September 1, 2020. An application filed before September 1, 2020, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3.05. Section 1071.254(a), Occupations Code, as amended by this Act, applies only to an application for registration as a registered professional land surveyor that is filed on or after the effective date of this Act. An application for a registration that was filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 3.06. The Texas Board of Professional Engineers and Land Surveyors is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 3.07. To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.08. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1523** by Nevárez (Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, As Passed 2nd House: a negative impact of ($156,892) through the biennium ending August 31, 2021.

The Texas Board of Professional Engineers and Land Surveyors, Board of Professional Land Surveying, Board of Professional Engineers, and any other state agency subject to this Act are required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agencies may, but are not required to, implement a provision of this Act using other appropriations available for that purpose. The Texas Board of Professional Engineers and Land Surveyors, created by this Act, is a self-directed, semi-independent state agency that does not receive appropriations from the Legislature.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($156,892)
2022	($156,892)
2023	($156,892)
2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$468,108	$12,500	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
2024	($625,000)	$468,108	$12,500	(6.0)

Fiscal Analysis

The bill would amend the Occupations Code to implement Sunset Commission recommendations to abolish the Texas Board of Professional Land Surveying (TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.

The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code.

The bill states the TBPELS and any other state agency subject to the bill would be required to implement the provisions of the bill only if the Legislature appropriates money specifically for that purpose. The bill would take effect on September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year. This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2021, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2021.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state.

TBPELS would be a SDSI agency and would be required to set fees in an amount to cover the costs of regulation. As a SDSI agency, the TBPELS would not be appropriated any state funds. Due to the provision that the state agency is only required to implement a provision of the Act if the legislature appropriates money specifically for that purpose, it is possible that TBPELS would not

be required to implement the Act.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

LBB Staff: WP, DFR, CLo, SGr, SD, CMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 17, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1523** by Nevárez (Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, Committee Report 2nd House, Substituted: a negative impact of ($156,892) through the biennium ending August 31, 2021.

The Texas Board of Professional Engineers and Land Surveyors, Board of Professional Land Surveying, Board of Professional Engineers, and any other state agency subject to this Act are required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agencies may, but are not required to, implement a provision of this Act using other appropriations available for that purpose. The Texas Board of Professional Engineers and Land Surveyors, created by this Act, is a self-directed, semi-independent state agency that does not receive appropriations from the Legislature.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($156,892)
2022	($156,892)
2023	($156,892)
2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$468,108	$12,500	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
2024	($625,000)	$468,108	$12,500	(6.0)

Fiscal Analysis

This bill would amend the Occupations Code to implement Sunset Commission recommendations to abolish the Texas Board of Professional Land Surveying (TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.

The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code.

The bill states the TBPELS and any other state agency subject to the bill would be required to implement the provisions of the bill only if the Legislature appropriates money specifically for that purpose. The bill would take effect on September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year. This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2021, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2021.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state.

TBPELS would be a SDSI agency and would be required to set fees in an amount to cover the costs of regulation. As a SDSI agency, the TBPELS would not be appropriated any state funds. Due to the provision that the state agency is only required to implement a provision of the Act if the legislature appropriates money specifically for that purpose, it is possible that TBPELS would not

be required to implement the Act.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

LBB Staff: WP, DFR, CLo, SGr, SD, CMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 26, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1523** by Nevárez (Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, As Engrossed: a negative impact of ($156,892) through the biennium ending August 31, 2021.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($156,892)
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2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$468,108	$12,500	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
2024	($625,000)	$468,108	$12,500	(6.0)

Fiscal Analysis

This bill would amend the Occupations Code to implement Sunset Commission recommendations to abolish the Texas Board of Professional Land Surveying (TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming

the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.

The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code.

The bill would take effect September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year. This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2021, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2021.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state.

TBPELS would be a SDSI agency and would be required to set fees in an amount to cover the costs of regulation. As a SDSI agency, the TBPELS would not be appropriated any state funds.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

LBB Staff: WP, CLo, SGr, DFR, SD, CMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 26, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1523** by Nevárez (Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, Committee Report 1st House, Substituted: a negative impact of ($156,892) through the biennium ending August 31, 2021.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($156,892)
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2023	($156,892)
2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$468,108	$12,500	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
2024	($625,000)	$468,108	$12,500	(6.0)

Fiscal Analysis

This bill would amend Chapters 1001 and 1071 of the Occupations Code to implement Sunset

Commission recommendations to abolish the Texas Board of Professional Land Surveying (TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.
The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code.

The bill would take effect September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year. This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2021, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2021.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state.

TBPELS would be a SDSI agency and would be required to set fees in an amount to cover the costs of regulation. As a SDSI agency, the TBPELS would not be appropriated any state funds.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

LBB Staff: WP, CLo, SGr, DFR, SD, CMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

March 11, 2019

TO: Honorable Tracy O. King, Chair, House Committee on Licensing & Administrative Procedures

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1523** by Nevárez (Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors, following the recommendations of the Sunset Advisory Commission; changing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, As Introduced: a negative impact of ($156,892) through the biennium ending August 31, 2021.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($156,892)
2022	($156,892)
2023	($156,892)
2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$468,108	$12,500	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
2024	($625,000)	$468,108	$12,500	(6.0)

Fiscal Analysis

This bill would amend Chapters 1001 and 1071 of the Occupations Code to implement Sunset

Commission recommendations to abolish the Texas Board of Professional Land Surveying (TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.

The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code.

The bill would take effect September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year. This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2021, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2021.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state.

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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

LBB Staff: WP, CLo, SGr, DFR, SD, CMa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

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FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
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Estimated Two-year Net Impact to General Revenue Related Funds for HB1523, As Introduced: a negative impact of ($625,000) through the biennium ending August 31, 2021.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	$0
2021	($625,000)
2022	($156,892)
2023	($156,892)
2024	($156,892)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$0	$0	$0	0.0
2021	($625,000)	$0	$0	(6.0)
2022	($625,000)	$468,108	$12,500	(6.0)
2023	($625,000)	$468,108	$12,500	(6.0)
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Fiscal Analysis

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(TBPLS) and transfer the regulation of the profession of land surveying to the Texas Board of Professional Engineers (TBPE), forming the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and maintaining the TBPE's status as a self-directed, semi-independent (SDSI) state agency. The two boards would work together and complete this task not later than September 1, 2020.

The bill would make conforming amendments to the Civil Practice and Remedies Code, Government Code, Health and Safety Code, Insurance Code, Natural Resources Code, Occupations Code, and Water Code. The bill would take effect September 1, 2019.

Methodology

The bill continues the TBPLS in existence through the first year of the biennium for the purpose of transferring obligations, property, rights, powers, and duties to the TBPELS. The transfer must be completed by September 1, 2020 and any unexpended funds appropriated to the TBPLS will also transfer to TBPELS.

This analysis assumes that TBPLS are appropriated $480,608 in fiscal year 2020 and $480,607 in fiscal year 2021 in All Funds. As a result, the unexpended balance, rather than reverting to the General Revenue Fund, will be transferred to TBPELS's fund, therefore no savings will be realized but there will be a reduction of six full-time equivalent (FTE) positions. Beginning in fiscal year 2021, as a result of the abolishment of the TBPLS, professional fees from land surveyors would no longer be collected and deposited into the General Revenue Fund. According to the Comptroller of Public Accounts, this would result in a revenue loss of approximately $625,000 per fiscal year.

This analysis assumes the TBPLS will continue to collect professional fees through August 31, 2020, therefore the revenue loss to the General Revenue Fund will begin in fiscal year 2021. Beginning in fiscal year 2022, an estimated cost savings of $468,108 in General Revenue Funds and $12,500 in Appropriated Receipts funds and a reduction of six FTE positions is expected per fiscal year because the regulation of the profession of land surveying will no longer be a cost to state funds. This would result in a net negative fiscal impact of $156,892 to General Revenue Funds beginning in fiscal year 2022.

According to TBPE, it will be necessary to add up to four additional FTE positions to regulate the land surveyors. Additionally, TBPE expects to have increased costs in professional services, travel, and other operating expenses. However, any additional costs will be absorbed by the agency in SDSI status and have no fiscal impact to the state. TBPELS would be a SDSI agency and would be required to set fees in an amount to cover the costs of regulation. As a SDSI agency, the TBPELS would not be appropriated any state funds.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 460 Board of Professional Engineers, 464 Board of Professional Land Surveying

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