

SUBJECT: Regulating geologists, geophysicists, and soil scientists

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 7 ayes — Wilson, Kubiak, Goolsby, Haggerty, Pickett, Torres, Yarbrough
0 nays
2 absent — Hamric, D. Jones

SENATE VOTE: On final passage, April 14 — voice vote (Bivins registered nay)

WITNESSES: None

DIGEST: CSSB 486 would prohibit unlicensed persons from engaging in the public practice of geology, geophysics, or soil science or a speciality of these professions. The bill would create the Board of Licensure for Geologists, Geophysicists and Soil Scientists to license, discipline, investigate complaints against and maintain a roster of all such licensed professionals.

The bill would take effect September 1, 1997. Licensing and offense provisions would take effect January 1, 1999.

Board composition and duties. The board would be composed of nine members appointed by the governor with the advice and consent of the Senate. Five members would be licensed geologists, one a licensed geophysicist, one a licensed soil scientist, and two from the general public. All would have to be U.S. citizens, at least 25 years old, and Texas residents for three years. Members would serve six-year terms. The board would meet at least twice each year and would be entitled to a per diem set by the Legislature and reimbursement for transportation expenses. The board would have to comply with the Open Meetings law and the Administrative Procedure Act. Unless continued pursuant to the Sunset Act, the board would be abolished September 1, 2007.

The board would appoint an executive director to manage its day-to-day affairs and receive, administer and account for all money received from the

comptroller. Funds received by the board would be deposited in a special fund to pay for its expenses.

The board would be authorized to:

- adopt a code of professional responsibility and enter into agreements with other states or organizations to develop uniform standards;
- recognize the use of designations used by its licensed professionals and organizations and establish and certify specialty branches;
- maintain a roster of licensees.
- issue, renew and reinstate or deny, revoke, or suspend licenses or renewals;
- set reasonable fees for applicants and licensees and conduct examinations of applicants;
- report disciplinary actions taken and issue public notice of all suspensions and revocations;
- investigate all written complaints of violations;
- impose limitations or restrictions on the practice of applicants, including participation in peer review programs;
- require restitution of compensation or fees earned by licensees;
- impose administrative penalties and sanctions for incompetency, fraud, negligence or convictions; and
- administer oaths, issue subpoenas and cease and desist orders and seek injunctions.

The board would be authorized to adopt and enforce all necessary rules. Persons aggrieved by a decision or action of the board would be able to appeal in court.

Licensing requirements. CSSB 486 would set certain requirements for licensing. Applicants for licenses would have to have graduated from an approved course of study, have at least four years of satisfactory work experience, have passed a board examination, and have five letters of reference. Applicants for specialty certification would have to meet additional study and work requirements. The board could waive any requirements, except the application fee, for good cause.

The board would issue a certificate and seal to qualified applicants. Licenses would have to be renewed after three years, with renewal subject to continuing education requirements.

Persons with licenses from other states would not have to take the exam, and nonresidents would obtain a 90-day temporary license.

Individuals engaged in the public practice of geology, geophysics or soil science could not represent themselves as being licensed without having complied with the licensing requirements. Firms and corporations could not engage in or hold themselves out as licensed in the public practice of geology, geophysics or soil science, unless the work was performed or supervised by a licensed or certified individual.

The bill would prohibit other violations of licensing requirements. Offenses would be a Class A misdemeanor, punishable by a maximum penalty of one year in jail and a \$4,000 fine.

The bill would exempt several activities from licensing requirements, including work performed by employees or subordinates of licensees or by officers and employees of the United States; private industry work in oil and gas and other energy resources; research conducted by an academic institution, government agency or nonprofit institution; teaching geology, geophysics or soil science; interpreting data for engineering purposes; testifying or preparing court exhibits; and work performed by scientists, chemists, archaeologists, geographers and oceanographers if the scientists were not in charge of the project.

**SUPPORTERS
SAY:**

CSSB 486 is necessary to regulate a growing number of engineering geologists, hydrogeologists and environmental geologists and physicists who practice in specialties and areas that directly and indirectly affect the health, safety and welfare of the general public. These professionals touch our lives every day; their specialties encompass the analysis of natural geological and geophysical hazards such as landslides, coastal erosion, earthquakes and flooding; investigations of foundation conditions for major buildings, transportation routes and dams; evaluations of hazardous and radioactive waste material disposal sites; cleanup of hazardous waste spills and contaminated sites and studies to provide groundwater protection.

All of these areas vitally affect the health and safety of the public. State overview of the education and professionalism of these scientists is necessary to ensure that citizens of Texas are protected in their every day activities.

CSSB 486 would apply to these critical professions the same scrutiny that is afforded other activities, such as air conditioning and refrigeration contracting or insurance sales. It would not forge new ground in occupational licensing but instead apply standard procedures to this field, akin to those already required for registered professional engineers.

The bill would define geoscience through the definition of geoscientists. Requiring a licensed geologist to supervise a project would conform to current state policy on certain work performed by licensed engineers. Since geographers would be exempted from the bill, they still could conduct environmental and pollution remediation projects. Academic institutions would be exempted from the bill's requirements unless persons were teaching advanced courses.

**OPPONENTS
SAY:**

The definition of geology in the bill would too broad because parts of it would apply to other disciplines, including physical and applied geography, hydrology, geomorphology and environmental science. No one who graduated with a degree in any of these disciplines could obtain a license under this bill. The licensing requirements would mandate a degree in geology or geoscience, the latter of which would not be defined in the bill.

Because of the broad definition of geology, this bill could change job descriptions at state agencies like the Texas Natural Resource Conservation Commission (TNRCC) and subordinate and disenfranchise qualified and well trained individuals. This would require costly and extensive rule revisions at TNRCC to reclassify jobs. This bill would impact geographers, other earth scientists, students and alumni from many academic institutions and exclude qualified earth scientists from productive practice.

The section prohibiting the public practice of geology, geophysics and soil science without a license would preclude employees of a political subdivision or a state agency from supervising the preparation of a geological report that incorporated or was based on a geological study

unless they were licensed geologists. This would preclude employees already performing this type of work from doing the work unless supervised by a licensee, adding an unnecessary level of review to the process.

Other sections contain unclear references to certifications that could limit the opportunities of individuals from geoscience disciplines other than geology.

NOTES:

The committee substitute removed references to specific associations and societies, professional designations, and professional examinations.