

BILL ANALYSIS

Senate Research Center

C.S.S.B. 486
By: Brown
State Affairs
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Committee Report (Substituted)

DIGEST

Currently, Texas geologists and geophysicists have been engaged in mineral and oil and gas exploration and development on behalf of private industry. Over the past decade, the number of privately employed petroleum geologists and geophysicists in Texas has declined, and the number of engineering geologists, hydrogeologists, and environmental geologists and geophysicists has increased. These scientists practice in specialties and areas that directly and indirectly affect the health, safety, and welfare of the general public. Some examples are the analyses of natural geological and geophysical hazards such as landslides, coastal erosion, earthquakes, and flooding; geological and geophysical investigations of foundation conditions for major buildings, transportation routes, and dams; environmental geological and geophysical evaluations of municipal, hazardous, and radioactive waste materials disposal sites; cleanup of hazardous waste spills and contaminated sites; and geological and geophysical studies to provide groundwater protection.

PURPOSE

As proposed, C.S.S.B. 486 outlines provisions and provides an administrative and a criminal penalty regarding the regulation of geologists, geophysicists, and soil scientists.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Board of Registration for Geologists, Geophysicists, and Soil Scientists under SECTIONS 14(a), (d), and (h), 26(a), 33(b), 34(b), 37(b), and 38(a) and (e), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE: Geoscientist Licensing Act.

SECTION 2. PURPOSE. Provides that in order to safeguard the interests of the citizens of this state, to promote the public welfare, and to protect the environment, the public practice of geology, geophysics, and soil science in this state is declared to be subject to regulation in the public interest.

SECTION 3. DEFINITIONS. Defines "board," "board certified specialty geologist," "board certified specialty geophysicist," "certified geologist," "certified geophysicist," "certified soil scientist," "geological subordinate," "geologist," "geology," "geophysical subordinate," "geophysicist," "geophysics," "public practice of soil science," "licensed professional geologist," "licensed professional geophysicist," "licensed professional soil scientist," "responsible charge," "soil science," "soil science subordinate," "soil scientist," "geoscientist" "specialty," "practice of specialty geophysics," "practice of specialty soil science" and "performance before the public." Redefines "board certified specialty soil scientist," "public practice of geology," "public practice of geophysics," and "practice of specialty geology."

SECTION 4. BOARD OF LICENSURE FOR GEOLOGISTS, GEOPHYSICISTS, AND SOIL SCIENTISTS. Provides that the Board of Licensure for Geologists, Geophysicists, and Soil Scientists (board) is created to administer the provisions of this Act. Sets forth the composition of the board. Provides that board members serve staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year. Prohibits a board member from serving more than two consecutive full terms. Provides that the board is subject to Chapter 325, Government Code (Texas

Sunset Act). Provides that the board is abolished and this Act expires September 1, 2007, unless continued in existence as provided by that chapter.

SECTION 5. RESTRICTIONS ON PUBLIC MEMBERSHIP. Sets forth instances in which a person is ineligible for appointment as a public board member.

SECTION 6. CONFLICTS OF INTEREST. Sets forth individuals prohibited from serving as board members or employees of the board because of conflicts of interest. Defines "Texas trade association."

SECTION 7. LOBBYIST RESTRICTION. Prohibits a person from serving as a board member or acting as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

SECTION 8. REMOVAL FROM THE BOARD. Sets forth instances constituting grounds for removal from the board.

SECTION 9. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE; PUBLIC PARTICIPATION. Provides that the board is subject to Chapters 551 and 2001, Government Code. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the board.

SECTION 10. VACANCY. Provides that if a vacancy on the board occurs, the governor is required to appoint a member to fill the unexpired term as provided by this Act.

SECTION 11. COMPENSATION. Provides that a board member is entitled to a per diem as set by the legislature for each day that the member engages in the business of the board. Provides that a board member is entitled to reimbursement for transportation and other expenses incurred in connection with the business of the board.

SECTION 12. IMMUNITY FROM CIVIL LIABILITY. Provides that a member or former member of the board or an agent, employee, or member of any advisory committee appointed by the board under this Act is immune from civil liability for any act or omission that occurred in the person's official capacity. Requires the attorney general to defend a person immune under this section in an action brought against the board or the person for an alleged act or omission by the person.

SECTION 13. MEETINGS; OFFICERS OF BOARD. Sets forth requirements and outlines provisions regarding board meetings and the election of board officers. Provides that a majority of the board constitutes a quorum.

SECTION 14. POWERS AND DUTIES OF THE BOARD. Sets forth board powers and duties.

SECTION 15. EXECUTIVE DIRECTOR; OFFICES. Sets forth the duties of an executive director the board is required to appoint, who shall be responsible for managing the day-to-day affairs of the board. Requires the board to maintain an official office and address within the city of Austin to conduct business.

SECTION 16. RECEIPTS AND DISBURSEMENTS; FUND. Sets forth requirements for the executive director regarding all money received under this Act. Sets forth requirements for all funds paid to the board. Requires all expenses incurred by the board in the administration and enforcement of this Act to be paid from the geoscientists fund. Requires the expenses and income to be balanced and subject to yearly audits by the state auditor. Provides that any unexpended balance remaining in the fund at the end of the fiscal year lapses to the general revenue fund.

SECTION 17. ROSTER AND SPECIALTIES LIST. Sets forth requirements regarding the establishment of a board roster and specialties list.

SECTION 18. LICENSURE REQUIRED. Sets forth prohibitions for individuals and entities unless the individual or entity possesses a license issued under this Act or contracts with a person in possession of a license issued under this Act.

SECTION 19. APPLICATION REQUIREMENTS. Sets forth requirements for an application for licensure as a geologist, geophysicist, or soil scientist, in a specialty of geology, geophysics, or soil science, or for temporary or reciprocal registration.

SECTION 20. GEOLOGIST LICENSING REQUIREMENTS. Sets forth requirements for an applicant to be licensed as a geologist.

SECTION 21. GEOPHYSICIST LICENSING REQUIREMENTS. Sets forth requirements for an applicant to be licensed as a geophysicist.

SECTION 22. SOIL SCIENTISTS LICENSING REQUIREMENTS. Sets forth requirements for a person to be licensed as a soil scientist.

SECTION 23. REQUIREMENTS FOR GEOLOGICAL, GEOPHYSICAL, OR SOIL SCIENCE SPECIALTY CERTIFICATION. Sets forth requirements an applicant for certification in a geological, geophysical, or soil science specialty is required to meet in addition to meeting the requirements of Section 20, 21, or 22 of this Act.

SECTION 24. QUALIFYING EXPERIENCE. Sets forth standards required to be applied in evaluating the experience of an applicant for licensure in the practice of geology, geophysics, or soil science or for a specialty certification under Sections 20-23 of this Act.

SECTION 25. GRADUATE STUDY, RESEARCH, AND TEACHING EXPERIENCE. Outlines provisions regarding graduate study, research, and teaching experience.

SECTION 26. LICENSURE WITHOUT EXAMINATION. Requires the board to adopt rules relating to the licensure of a person holding a valid certificate of registration or license for the practice of geology, geophysics, or soil science or a recognized specialty of geology, geophysics, or soil science issued under the law of another state or a territory or possession of the United States, the District of Columbia, or a foreign country, without requiring the person to meet the examination requirements of Sections 20-23 of this Act. Authorizes the board to issue a license to an applicant who provides proof of registration or licensure under requirements that the board determines to be substantially similar to those established by this Act and who pays the required fees.

SECTION 27. TEMPORARY LICENSURE. Sets forth instances in which certain persons may be issued a temporary license authorizing temporary practice in this state.

SECTION 28. WAIVER OF REQUIREMENTS. Sets forth instances in which the board is authorized to waive requirements for licensure. Requires the requirements waived under this section and the basis for the waiver to be recorded in the applicant's record and in the proceedings of the board.

SECTION 29. DENIAL OF LICENSURE. Sets forth instances in which a board is authorized to deny licensure to an applicant or the issuance of a certificate of registration. Sets forth requirements and outlines provisions regarding denial of licensure.

SECTION 30. CONTINUING EDUCATION. Provides that to renew a certain license an applicant for renewal must meet the continuing education requirements for renewal established by the board.

SECTION 31. CERTIFICATES AND SEALS. Sets forth requirements regarding the board's issuance of certificates and seals.

SECTION 32. LICENSE DURATION; EXPIRATION. Sets forth requirements regarding the duration and expiration of a license.

SECTION 33. LICENSE RENEWAL. Sets forth requirements regarding the renewing and reissuance of a license.

SECTION 34. LICENSEE'S SEAL. Sets forth requirements regarding a licensee's seal and certain documents.

SECTION 35. EXEMPTIONS; APPLICATION OF ACT. Sets forth activities which do not require licensure under this Act. Sets forth prohibitions and provisions regarding the practice of engineering. Outlines provisions regarding an environmental and pollution remediation project and the practice of professional surveying.

SECTION 36. PRACTICE OF GEOLOGY, GEOPHYSICS, OR SOIL SCIENCE BY FIRM OR CORPORATION. Sets forth exceptions from which a firm or corporation is prohibited from engaging in the public practice of geology, geophysics, or soil science or a specialty of geology, geophysics, or soil science. Provides that a firm or corporation permitted to engage in the public practice of geology, geophysics, or soil science or a specialty of geology, geophysics, or soil science is subject to the rules of the board that pertain to the practice of geology, geophysics, or soil science or a specialty of geology, geophysics, or soil science by a firm or corporation. Prohibits a person, firm, or corporation from holding out to the public that the person, firm, or corporation is a licensed professional geologist, licensed professional geophysicist, or licensed professional soil scientist, board certified in a specialty of geology, geophysics, or soil science, or able to perform geological, geophysical, or soil science services or prepare a report or other document that requires the signature and seal of a licensee under this Act.

SECTION 37. DISCIPLINE AND ENFORCEMENT. Sets forth disciplinary actions which the board is authorized to take. Sets forth actions for which the board is authorized to impose appropriate sanctions.

SECTION 38. COMPLAINTS; INVESTIGATION. Outlines provisions and sets forth requirements regarding complaints and the investigation of complaints. Provides that a person who reports or provides information to the board in good faith is not subject to an action for civil damages.

SECTION 39. REPORT OF DISCIPLINARY ACTION. Sets forth requirements regarding the reporting of disciplinary actions and the issuance of public notice of all suspensions and revocations of licenses.

SECTION 40. APPEAL. Authorizes a person aggrieved by a final decision or action of the board imposing a sanction under this Act to appeal the board's decision or action in a court of competent jurisdiction.

SECTION 41. REISSUANCE OF REGISTRATION. Sets forth requirements and outlines provisions regarding the reissuance of a license.

SECTION 42. OFFENSE. Sets forth instances in which a person commits an offense.

SECTION 43. TRANSITION. Sets forth instances in which an applicant who applies for a license under this Act before September 1, 1998, may be qualified for licensure without written examination. Sets forth instances in which an application for certification in a specialty who applies before the first anniversary of the date the board officially recognizes the specialty under this Act may be qualified for certification without written examination. Requires an initial board member who is required to be a licensed professional geologist, geophysicist, or soil scientist to be qualified for licensure or certification under Subsections (a) and (b) of this section. Requires the governor to make initial appointments to the board before November 1, 1997. Requires the board to hold its first meeting before January 1, 1998. Sets forth the initial appointments to the board. Provides that a person is not required to obtain a certificate of licensure under this Act until January 1, 1999.

SECTION 44. Effective date: September 1, 1997, except that Sections 18 and 42 take effect January 1, 1999.

SECTION 45. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Redefines "board certified specialty soil scientist," "public practice of geology," "public practice of geophysics," and "practice of specialty geology." Defines "licensed professional geologist," "licensed professional geophysicist," "licensed professional soil scientist," "geoscientist," and "performance before the public."

SECTION 4.

Amends heading and amends existing text regarding board of licensure for geologists, geophysicists, and soil scientists

SECTION 14.

Amends existing text regarding the powers and duties of the board.

SECTION 17.

Amends existing text regarding the maintenance of a roster and specialties list.

SECTION 18.

Amends heading and existing text regarding licensure requirements.

SECTION 19.

Amens existing text regarding application requirements.

SECTION 20.

Redefines heading and amends existing text regarding geologist licensing requirements.

SECTION 21.

Amends existing text regarding geophysicist licensing requirements.

SECTION 22.

Amends existing text regarding soil scientists licensing requirements.

SECTION 24.

Amends existing text regarding qualifying experience of an applicant for licensure.

SECTION 26.

Redefines heading and amends existing text regarding licensure without examination.

SECTION 27.

Redefines heading and amends existing text regarding temporary licensure.

SECTION 28.

Amends existing text regarding the waiver of requirements for licensure.

SECTION 29.

Redefines heading and amends existing text regarding denial of licensure.

SECTION 30.

Amends existing text regarding continuing education.

SECTION 31.

Amends existing text regarding certificates and seals.

SECTION 32.

Redefines heading and amends existing text regarding the duration and expiration of a license.

SECTION 33.

Redefines heading and amends existing text regarding license renewal.

SECTION 34.

Redefines heading and amends existing text regarding a licensee's seal.

SECTION 35.

Amends existing text regarding exemptions.

SECTION 36.

Amends existing text regarding the practice of geology, geophysics, or soil science by firm or corporation.

SECTION 37.

Amends existing text regarding discipline and enforcement.

SECTION 39.

Amends existing text regarding a report of disciplinary action.

SECTION 41.

Amends existing text regarding the reissuance of a license.

SECTION 42.

Amends existing text regarding an offense under this Act.

SECTION 43.

Amends existing text regarding the transition of qualifications for licensure.