

BILL ANALYSIS

Senate Research Center
76R3568 SMH-D

S.B. 129
By: Brown
State Affairs
5/5/1999
As Filed

DIGEST

Currently, it is estimated that one-third of practicing geologists in the United States reside or claim residence in Texas. Despite this fact, while 26 other states and Puerto Rico have recognized the need to regulate the public practice of geoscience, Texas has yet to pass similar legislation. Geoscientists undertake responsibilities that directly impact the environment as well as public health and safety through the construction of dams, highways, apartments, commercial developments, and petroleum industry-related projects. Topics which involved geologists' skills were responsible for over 200 bills introduced to the 73rd Legislature. S.B. 129 creates the Board of Licensure for Geologists, Geophysicists, and Soil Scientists, which has the responsibility of administering licenses, certificates, seals, and generally regulating the public practice of geology, geophysics, soil science, and their various specialties.

PURPOSE

As proposed, S.B. 129 creates the Board of Licensure for Geologists, Geophysicists, and Soil Scientists, which has the responsibility of administering licenses, certificates, seals, and generally regulating the public practice of geology, geophysics, soil science, and their various specialties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Board of Licensure for Geologists, Geophysicists, and Soil Scientists in SECTION 14 (Subsections (a) and (d)), SECTION 26, SECTION 33 (Subsections (b) and (c)), SECTION 37 (Subsection (a)), and SECTION 43 (Subsection (e)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE: Geoscientist Licensing Act.

SECTION 2. PURPOSE. Provides that the practice of geology, geophysics, and soil science in Texas is subject to regulation.

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

SECTION 4. BOARD OF LICENSURE FOR GEOLOGISTS, GEOPHYSICISTS, AND SOIL SCIENTISTS. Creates the Board of Licensure for Geologists, Geophysicists, and Soil Scientists (board). Provides that the board consists of nine members appointed by the governor and sets forth certain requirements concerning these appointments. Sets forth qualifications and terms of board appointment. Provides that the board is abolished September 1, 2009, unless continued under provisions in Chapter 325, Government Code (Texas Sunset Act.)

SECTION 5. RESTRICTIONS ON PUBLIC MEMBERSHIP. Prohibits public membership appointment for certain reasons, including various forms of receiving funds from the board.

SECTION 6. CONFLICTS OF INTEREST. Prohibits a Texas trade association member and that

member's spouse from board membership and board employment. Defines a Texas trade association.

SECTION 7. LOBBYIST RESTRICTION. Prohibits a person required to register as a lobbyist under Chapter 305, Government Code, because of activities related to the operation of the board, from serving on the board or as general counsel.

SECTION 8. REMOVAL FROM BOARD. Sets forth provisions for revoking board membership.

SECTION 9. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE; PUBLIC PARTICIPATION. Subjects the board to Chapters 551 and 2001, Government Code. Requires the board to provide the public with an opportunity to speak on issues under jurisdiction of the board.

SECTION 10. VACANCY. Requires the governor to appoint a member to fill a board vacancy.

SECTION 11. COMPENSATION. Entitles a board member to certain compensation for board activities including a per diem and reimbursement for transportation.

SECTION 12. IMMUNITY FROM CIVIL LIABILITY. Provides immunity from civil liability for actions in the official capacity of a former or current board member, an agent, employee, or member of an advisory committee appointed by the board. Requires the attorney general to defend such persons from actions brought against them.

SECTION 13. MEETINGS; OFFICERS OF BOARD. Requires the board to hold at least two meetings each year and sets forth provisions for election and appointment of board officers including non-board member appointments. Sets forth provisions regarding the administration of board meetings.

SECTION 14. POWERS AND DUTIES OF BOARD. Authorizes the board to adopt and enforce rules, set fees for applicants and licensees, and certify specialties for qualified applicants. Authorizes the board to create and evaluate the qualifications necessary for licensure or certification in geology, geophysics, and soil science. Authorizes the board to require certain evidence or action of an applicant, and to issue, renew, and reinstate a license. Authorizes the board to adopt and enforce a code of professional conduct. Requires the board to investigate complaints of violations of this Act. Requires the board to recognize the use of designations used by a professional geological, geophysical, or soil science association (geological sciences) if the requirements for certification are comparable to those of this Act and the designation or abbreviation is not misleading or creates an impression that the person not licensed by this Act is licensed to practice geological sciences. Authorizes the board to enter into agreements to develop uniform standards for the administration of this Act. Authorizes the board to incur expenses and take action in connection with the administration of this Act.

SECTION 15. EXECUTIVE DIRECTOR; OFFICES. Requires the board to appoint an executive director whose responsibilities include arranging support services and conferences, and conducting board correspondence. Requires the board to maintain an office within the city of Austin.

SECTION 16. RECEIPTS AND DISBURSEMENTS; FUND. Requires the executive director to account for all money received under this Act and transfer those funds to the comptroller. Requires a special fund called the "geoscientists fund" to be created for all funds paid to the board, and all board expenses to be paid from this fund. Requires the executive director to administer the geoscientists fund. Provides that the unexpended balance of the geoscientists fund at the end of the year lapses to the general revenue fund.

SECTION 17. ROSTER AND SPECIALTIES LIST. Requires the board to maintain various lists including the licensed professional geological scientists, recognized specialties, and United States territory or foreign countries with which a reciprocity agreement exists concerning licensure and registration of geological sciences professionals.

SECTION 18. LICENSURE REQUIRED. Prohibits public practice of geological sciences without a license. Prohibits persons from using identification as a licensed professional or claim to have specialty unless the person is licensed under this Act. Prohibits the state from contracting for geological science services with a nonlicensed person.

SECTION 19. APPLICATION REQUIREMENTS. Requires notary public witness to applications for

licensure. Details specific requirements of the application.

SECTION 20. GEOLOGIST LICENSING REQUIREMENTS. Sets forth licensing requirements for geologists.

SECTION 21. GEOPHYSICIST LICENSING REQUIREMENTS. Sets forth licensing requirements for geophysicists.

SECTION 22. SOIL SCIENTIST LICENSING REQUIREMENTS. Sets forth licensing requirements for soil scientists.

SECTION 23. REQUIREMENTS FOR GEOLOGICAL, GEOPHYSICAL, OR SOIL SCIENTIST SPECIALTY CERTIFICATION. Sets forth certification requirements for geological science specialties.

SECTION 24. QUALIFYING EXPERIENCE. Describes the circumstances under which a year of experience in professional practice is acceptable to the board to fulfill the requirements of the application for licensure.

SECTION 25. GRADUATE STUDY, RESEARCH, AND TEACHING EXPERIENCE. Details circumstances wherein graduate study, research, and teaching experience qualify as one year of professional experience.

SECTION 26. LICENSURE WITHOUT EXAMINATION. Authorizes the board to adopt rules regarding the licensure of a person without examination who has certification in a territory outside of Texas.

SECTION 27. TEMPORARY LICENSURE. Provides that temporary licensure not exceed 90 days and that the licensee be in compliance with all the requirements of the board.

SECTION 28. WAIVER OF REQUIREMENTS. Authorizes the board to waive any of the requirements by a two-thirds vote of the entire board, except for the payment of a required fee. Requires the waived requirements to be recorded.

SECTION 29. DENIAL OF LICENSURE. Authorizes the board to deny licensure under certain conditions including: failure to satisfy a requirement, violation of this Act, and an alleged violation in another state. Requires the board to notify a denied applicant in writing 30 days after the decision and sets forth provisions for a hearing.

SECTION 30. CONTINUING EDUCATION. Requires a licensee to meet continuing education requirements to renew a license.

SECTION 31. CERTIFICATES AND SEALS. Requires the board to issue appropriate evidence of licensure to applicants who meet the requirements of this Act. Specifies the format of certification issued by the board.

SECTION 32. LICENSE DURATION; EXPIRATION. Provides that a license is valid for three years and expires according to a schedule established by the board. Requires the board to notify each certificate holder of the date of expiration and the amount of the fee required for renewal not later than the 60th day before the date of expiration.

SECTION 33. LICENSE RENEWAL. Authorizes the board to establish rules and fees regarding renewal and reissuance of licenses.

SECTION 34. LICENSEE'S SEAL. Requires a licensee to obtain a seal of a design established by the board and sets forth the format of the seal. Sets forth provisions regarding documents that are required to be prepared or issued by a licensee.

SECTION 35. EXEMPTIONS; APPLICATION OF ACT. Defines specific activities which do not require licensure under this Act. Provides that licensees are not authorized to practice engineering under this Act. Permits certain action with regard to environmental and pollution remediation projects. Provides that licensees are not authorized to practice professional surveying under this Act.

SECTION 36. PRACTICE OF GEOLOGY, GEOPHYSICS, OR SOIL SCIENCE BY FIRM OR CORPORATION. Prohibits a corporation from the public practice of geology except under the supervision of a licensee. Provides certain conditions for a corporation engaging in the public practice of geological sciences.

SECTION 37. DISCIPLINE AND ENFORCEMENT. Authorizes the board to take several disciplinary actions including: revoking a license, issuing a reprimand, requiring participation in a program, and restitution of fees earned by a licensee under this Act. Authorizes the board to impose sanctions for certain actions.

SECTION 38. COMPLAINTS; INVESTIGATION. Authorizes a person to bring a complaint alleging a violation of this Act. Requires the board to investigate all complaints. Requires complaints to be made in writing.

SECTION 39. REPORT OF DISCIPLINARY ACTION. Requires the board to report disciplinary actions to regulatory officials, law enforcement authorities, and to issue public notice when appropriate for violations of this Act.

SECTION 40. APPEAL. Authorizes a person to appeal when aggrieved by a final decision of the board.

SECTION 41. REISSUANCE OF A LICENSE. Authorizes the board to reissue a license after the third anniversary of revocation if the required application shows good cause to justify reissuance. Sets forth provisions regarding the board's rights to impose limitations upon reissuance of a license.

SECTION 42. OFFENSE. Provides that a person commits a Class A misdemeanor for an offense under this Act. Sets forth specific circumstances that define an offense of this Act.

SECTION 43. TRANSITION. Sets forth provisions allowing licensure without a written examination provided that the application is made before September 1, 2000. Authorizes the governor to make initial board appointments before November 1, 1999, and sets forth provisions for the terms of these appointments. Requires the board to adopt rules under this Act before November 30, 2000.

SECTION 44. Effective date: September 1, 1999.
Effective date for SECTIONS 18 and 42: January 1, 2001.

SECTION 45. Emergency clause.