

1-1 By: Thompson of Harris, et al. H.B. No. 1311
 1-2 (Senate Sponsor - Watson)
 1-3 (In the Senate - Received from the House April 8, 2019;
 1-4 April 9, 2019, read first time and referred to Committee on
 1-5 Business & Commerce; April 29, 2019, reported favorably by the
 1-6 following vote: Yeas 8, Nays 0; April 29, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the continuation and functions of the Texas Board of
 1-21 Professional Geoscientists.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 1002.003, Occupations Code, is amended
 1-24 to read as follows:

1-25 Sec. 1002.003. APPLICATION OF SUNSET ACT. The Texas Board
 1-26 of Professional Geoscientists is subject to Chapter 325, Government
 1-27 Code (Texas Sunset Act). Unless continued in existence as provided
 1-28 by that chapter, the board is abolished and this chapter expires
 1-29 September 1, 2025 [~~2019~~].

1-30 SECTION 2. Section 1002.057, Occupations Code, is amended
 1-31 by amending Subsection (a) and adding Subsection (a-1) to read as
 1-32 follows:

1-33 (a) The governor shall designate a member of the board as
 1-34 the presiding officer of the board to serve in that capacity at the
 1-35 pleasure of the governor.

1-36 (a-1) The board shall elect biennially from its own
 1-37 membership an [a presiding officer,] assistant presiding
 1-38 officer[7] and a secretary-treasurer. A member may not hold a
 1-39 position described by this subsection [one of those positions]
 1-40 for more than two consecutive two-year periods. A member serves in a
 1-41 [the] position described by this subsection at the will of the board
 1-42 and may be removed from that [the] position by a two-thirds majority
 1-43 vote of the board.

1-44 SECTION 3. Section 1002.060, Occupations Code, is amended
 1-45 by amending Subsection (b) and adding Subsection (d) to read as
 1-46 follows:

1-47 (b) The training program must provide the person with
 1-48 information regarding:

1-49 (1) the law governing board operations [legislation
 1-50 that created the board];

1-51 (2) the board's programs, functions, rules, and budget
 1-52 [operated by the board];

1-53 (3) the scope of and limitations on the rulemaking
 1-54 authority of the board [role and functions of the board];

1-55 (4) the types of board rules, interpretations, and
 1-56 enforcement actions that may implicate federal antitrust law by
 1-57 limiting competition or impacting prices charged by persons engaged
 1-58 in a profession or business the board regulates, including any
 1-59 rule, interpretation, or enforcement action that:

1-60 (A) regulates the scope of practice of persons in
 1-61 a profession or business the board regulates;

2-1 (B) restricts advertising by persons in a
 2-2 profession or business the board regulates;
 2-3 (C) affects the price of goods or services
 2-4 provided by persons in a profession or business the board
 2-5 regulates; or
 2-6 (D) restricts participation in a profession or
 2-7 business the board regulates [rules of the board, with an emphasis
 2-8 on the rules that relate to disciplinary and investigative
 2-9 authority];
 2-10 (5) [~~the current budget for the board,~~
 2-11 [~~(6)~~] the results of the most recent formal audit of the
 2-12 board;
 2-13 (6) [~~(7)~~] the requirements of:
 2-14 (A) laws relating to [~~the~~] open meetings, [~~law,~~
 2-15 Chapter 551, Government Code,
 2-16 [~~(B)~~ the] public information, [~~law, Chapter 552,~~
 2-17 Government Code,
 2-18 [~~(C)~~ the] administrative procedure, and
 2-19 disclosure of conflicts of interest [~~law, Chapter 2001, Government~~
 2-20 Code]; and
 2-21 (B) [~~(D)~~] other laws applicable to members of a
 2-22 state policymaking body in performing their duties [~~relating to~~
 2-23 public officials, including conflict-of-interest laws]; and
 2-24 (7) [~~(8)~~] any applicable ethics policies adopted by
 2-25 the board or the Texas Ethics Commission.
 2-26 (d) The executive director of the board shall create a
 2-27 training manual that includes the information required by
 2-28 Subsection (b). The executive director shall distribute a copy of
 2-29 the training manual annually to each member of the board. Each
 2-30 member of the board shall sign and submit to the executive director
 2-31 a statement acknowledging that the member received and has reviewed
 2-32 the training manual.
 2-33 SECTION 4. Subchapter D, Chapter 1002, Occupations Code, is
 2-34 amended by adding Section 1002.1511 to read as follows:
 2-35 Sec. 1002.1511. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
 2-36 RESOLUTION. (a) The board shall develop a policy to encourage the
 2-37 use of:
 2-38 (1) negotiated rulemaking procedures under Chapter
 2-39 2008, Government Code, for the adoption of board rules; and
 2-40 (2) appropriate alternative dispute resolution
 2-41 procedures under Chapter 2009, Government Code, to assist in the
 2-42 resolution of internal and external disputes under the board's
 2-43 jurisdiction.
 2-44 (b) The board's procedures relating to alternative dispute
 2-45 resolution must conform, to the extent possible, to any model
 2-46 guidelines issued by the State Office of Administrative Hearings
 2-47 for the use of alternative dispute resolution by state agencies.
 2-48 (c) The board shall:
 2-49 (1) coordinate the implementation of the policy
 2-50 adopted under Subsection (a);
 2-51 (2) provide training as needed to implement the
 2-52 procedures for negotiated rulemaking or alternative dispute
 2-53 resolution; and
 2-54 (3) collect data concerning the effectiveness of those
 2-55 procedures.
 2-56 SECTION 5. Section 1002.204, Occupations Code, is amended
 2-57 by amending Subsection (a) and adding Subsection (c) to read as
 2-58 follows:
 2-59 (a) The board shall maintain a system to promptly and
 2-60 efficiently act on complaints filed with the board. The board shall
 2-61 provide to the person filing the complaint and to each person who is
 2-62 a subject of the complaint a copy of the board's policies and
 2-63 procedures relating to complaint investigation and resolution.
 2-64 (c) The board may employ or contract with advisors,
 2-65 consultants, geoscientists, engineers, or other persons to provide
 2-66 technical assistance in investigations and disciplinary
 2-67 proceedings. Except for an action involving fraud, conspiracy, or
 2-68 malice, a person whose services are obtained by the board under this
 2-69 subsection is immune from civil liability and may not be subjected

3-1 to a suit for damages for any investigation, report,
 3-2 recommendation, statement, evaluation, finding made, or other
 3-3 action taken in the course of performing the person's official
 3-4 duties.

3-5 SECTION 6. Sections 1002.253(a) and (c), Occupations Code,
 3-6 are amended to read as follows:

3-7 (a) An applicant for a license under this chapter, including
 3-8 an applicant for a temporary or reciprocal license, must apply on a
 3-9 form prescribed by the board that is signed [~~and sworn to~~] by the
 3-10 applicant [~~before a notary public~~].

3-11 (c) The application must be accompanied by [+
 3-12 ~~(1) not fewer than five reference letters, of which~~
 3-13 ~~not fewer than three are from geoscientists, or other professionals~~
 3-14 ~~acceptable to the board, who have personal knowledge of the~~
 3-15 ~~applicant's relevant work experience; and~~
 3-16 ~~(2)] the appropriate application fee.~~

3-17 SECTION 7. Section 1002.255, Occupations Code, is amended
 3-18 to read as follows:

3-19 Sec. 1002.255. LICENSE ELIGIBILITY. (a) To be eligible for
 3-20 a license under this chapter, an applicant must:

3-21 (1) ~~[be of good moral and ethical character as~~
 3-22 ~~attested to by letters of reference submitted in behalf of the~~
 3-23 ~~applicant or as otherwise determined by the board,~~
 3-24 ~~(2)] have:~~

3-25 (A) graduated from a course of study in a
 3-26 discipline of geoscience satisfactory to the board that consists of
 3-27 at least four years of study and includes at least 30 semester hours
 3-28 or 45 quarter hours of credit in geoscience, of which at least 20
 3-29 semester hours or 30 quarter hours of credit must be in upper-level
 3-30 college courses in that discipline; or

3-31 (B) satisfactorily completed other equivalent
 3-32 educational requirements as determined by the board;

3-33 (2) ~~(3)]~~ have a documented record of at least five
 3-34 years of qualifying work experience, as provided by Section
 3-35 1002.256, that demonstrates that the applicant is qualified to
 3-36 assume responsible charge of geoscientific work;

3-37 (3) ~~(4)]~~ pass an examination required by the board
 3-38 covering the fundamentals and practice of the appropriate
 3-39 discipline of geoscience; and

3-40 (4) ~~(5)]~~ meet any other requirements established by
 3-41 the board.

3-42 (b) The board may accept qualifying work experience in lieu
 3-43 of the education required by Subsection (a)(1) [~~(a)(2)]~~.

3-44 SECTION 8. Section 1002.257(a), Occupations Code, is
 3-45 amended to read as follows:

3-46 (a) The board by rule may authorize the licensing of a
 3-47 person who has not met the examination requirement of Section
 3-48 1002.255(a)(3) [~~1002.255(a)(4)]~~ if the person is licensed or
 3-49 registered to practice a discipline of geoscience under the law of
 3-50 another state or a foreign country.

3-51 SECTION 9. Section 1002.260, Occupations Code, is amended
 3-52 to read as follows:

3-53 Sec. 1002.260. CONFIDENTIALITY OF CERTAIN INFORMATION. A
 3-54 statement made by a person who provides [~~a reference for an~~
 3-55 ~~applicant for a license under this chapter or provides]~~ any
 3-56 information compiled by or submitted to the board relating to an
 3-57 applicant is privileged and confidential and may be used only by the
 3-58 board or an employee or agent of the board who is directly involved
 3-59 in the application or licensure process. Confidential information
 3-60 under this section is not subject to discovery, subpoena, or other
 3-61 disclosure in any proceeding.

3-62 SECTION 10. Section 1002.452(b), Occupations Code, is
 3-63 amended to read as follows:

3-64 (b) The amount of the penalty may not exceed \$1,500 [~~\$100~~]
 3-65 for each violation. Each day a violation continues or occurs is a
 3-66 separate violation for purposes of imposing a penalty.

3-67 SECTION 11. (a) Except as provided by Subsection (b) of
 3-68 this section, Section 1002.060, Occupations Code, as amended by
 3-69 this Act, applies to a member of the Texas Board of Professional

4-1 Geoscientists appointed before, on, or after the effective date of
4-2 this Act.

4-3 (b) A member of the Texas Board of Professional
4-4 Geoscientists who, before the effective date of this Act, completed
4-5 the training program required by Section 1002.060, Occupations
4-6 Code, as that law existed before the effective date of this Act, is
4-7 required to complete additional training only on subjects added by
4-8 this Act to the training program as required by Section 1002.060,
4-9 Occupations Code, as amended by this Act. A board member described
4-10 by this subsection may not vote, deliberate, or be counted as a
4-11 member in attendance at a meeting of the board held on or after
4-12 December 1, 2019, until the member completes the additional
4-13 training.

4-14 SECTION 12. Sections 1002.253 and 1002.255, Occupations
4-15 Code, as amended by this Act, apply only to an application for a
4-16 license to practice geoscience filed on or after the effective date
4-17 of this Act. An application for a license filed before the
4-18 effective date of this Act is governed by the law in effect on the
4-19 date the application was filed, and the former law is continued in
4-20 effect for that purpose.

4-21 SECTION 13. As soon as practicable after the effective date
4-22 of this Act, the governor shall designate a member of the Texas
4-23 Board of Professional Geoscientists as the presiding officer of the
4-24 board pursuant to Section 1002.057, Occupations Code, as amended by
4-25 this Act.

4-26 SECTION 14. Section 1002.452, Occupations Code, as amended
4-27 by this Act, applies only to conduct that occurs on or after the
4-28 effective date of this Act. Conduct that occurs before the
4-29 effective date of this Act is governed by the law in effect on the
4-30 date the conduct occurred, and the former law is continued in effect
4-31 for that purpose.

4-32 SECTION 15. This Act takes effect September 1, 2019.

4-33

* * * * *