

**TEXAS SOCIETY OF PROFESSIONAL SURVEYORS  
STRATEGIC PLANNING & BOARD OF DIRECTORS MEETING  
July 26-27, 2019  
Hunt, Texas**

**LEGISLATIVE UPDATE  
2018-2019 Sunset Review  
Chronological Sequence of Important Events**

**March 19, 2018** – The Sunset Commission met in Austin and adopted a Review Schedule for the 32 state agencies that will be reviewed in this cycle. The TBPLS will be reviewed in August, September, and October 2018. A public hearing will be held on December 12-13, 2018 and the Commission will make decisions on January 9, 2019.

**July 15, 2018** – TSPS so advised the TSPS membership and attached background information and comments that TSPS will provide to the Sunset staff and members of the Sunset Advisory Commission and the Legislature in support of the TBPLS and its continuation as an independent licensing agency which performs a very important role in protecting the best interests of the citizens of Texas. Additionally, TSPS asked all members to review this document, discuss the pending Sunset review of the TBPLS with your State Senator and State Representative, and ask them to support the surveying profession by voting to continue the TBPLS as an independent licensing agency for another 12 years.

**August 15, 2018** – TSPS designated 12 TSPS members and asked them to serve as “*TBPLS Sunset Review Key Contact Members*” for one of the 12 members of the Texas Sunset Commission. As a Key Contact Member, they were asked to recruit other TSPS members who live/work within the Sunset Commission Member’s legislative district to advocate “*one on one*” for the continuation of the TBPLS as an independent and autonomous Board. This will include encouraging other TSPS members to attend local campaign events and deliver SURPAC and personal contributions to help establish a positive relationship with these elected officials.

**August 16, 2018** – TSPS distributed the TBPLS 2018 Sunset Review document to all TSPS members and asked them to please contact their legislators advocating for the continuation of TBPLS as an independent and autonomous Board.

**August 17, 2018** – TSPS distributed the Sunset Commission Survey to all TSPS members and encouraged them to advocate for the continuation of the TBPLS as an independent and autonomous licensing agency.

**August 22, 2018** – TSPS President John Barnard, Governmental Affairs Chair Bill O’Hara, Executive Director DJ Kyle, and Legal/Legislative Counsel Mark Hanna met with the Sunset Commission Staff regarding their ongoing review of the TBPLS. At that meeting, TSPS advocated for the continuation of TBPLS as an independent licensing agency which performs a very important role in protecting the best interests of the citizens of Texas.

**November 9, 2018** – The Sunset Commission Staff issued a Staff Report which included its recommendations regarding the TBPLS. Specifically, the Sunset Staff determined that Texas has a continuing need to regulate land surveyors . . . but recommended the consolidation of TBPLS with the Texas Board of Professional Engineers, to create the new Texas Board of Professional Engineers and Land Surveyors. TSPS immediately so advised all TSPS members, provided a link to the full Report, and requested their concerns/comments. Further, the members were advised that the TSPS Legislative and Leadership Team would consider options/strategy regarding the Sunset Staff recommendations and report back to the TSPS membership with a “*game plan*” going forward.

**November 15, 2018** – TSPS notified the TSPS members that the TSPS Legislative and Leadership Team met on Monday, November 12, 2018 and approved the following strategy going forward:

- (1) TSPS will continue to support the continuation of the TBPLS as an independent licensing agency for another 12 years which is necessary for the health, safety and welfare of the citizens of Texas.
- (2) TSPS will analyze the Sunset Commission Staff Report and prepare a position paper/talking points which address the deficiencies/concerns noted by Staff and support the proposition that these deficiencies/concerns are easily remedied over the short term within the agency’s current budget ... and that the continuation of the regulation of the surveying profession by the TBPLS as an independent licensing agency ... as opposed to the consolidation of TBPLS with the Texas Board of Professional Engineers ... is in the public’s best interest.
- (3) TSPS will immediately notify the Sunset Commission Members that we are opposed to the consolidation proposal and schedule face-to-face meetings with our TSPS Key Contacts to discuss the matter and ask for their support.
- (4) Finally, TSPS will appear at the Sunset Commission Hearing currently scheduled for December 12-13, 2018 and testify in support of the continuation of the TBPLS as an independent licensing agency for another 12 years.

**November 26, 2018** – TSPS sent a Legislative Call to Action to all TSPS members asking that they provide comments to the Texas Sunset Commission members encouraging them to advocate for the continuation of TBPLS as an independent licensing agency.

**December 4, 2018** – TSPS provided the full agenda for the December 12-13 Sunset Commission meeting to all TSPS members and encouraged them to attend the meeting in person.

**December 10, 2018** – TSPS issued Legislative Call to Action 2! encouraging all TSPS members to ask their colleagues to complete the Public Input Form to the Sunset Commission Members encouraging them to support the continuation of the TBPLS as independent licensing agency which is necessary to protect health, safety, and welfare of the citizens of Texas.

**December 13, 2018** -- The Sunset Advisory Commission held a public hearing to consider the Sunset review of the Texas Board of Professional Land Surveying. The Sunset Commission heard a summary of the Staff Report by Sunset staff and the TBPLS response by the TBPLS Executive Director and Chairman. TSPS representatives attended the meeting, including testimony in support of continuing TBPLS as an independent board by President John Barnard, Vice-President Bill O'Hara, and Past-President Michael Parker. Other TSPS members were in attendance and also provided public comment. TSPS argued that an independent TBPLS better services the public and the profession than the combination with TBPE proposed in Issue 1 of the Staff Report. TSPS also argued that the residency requirement for the LSLS application referenced in the Staff Report Issue 2 is an important public protection. Based on interaction at the public hearing and separate conversations and advocacy by TSPS volunteers with individual Commission members, it appeared that our message was well received.

**January 4, 2019** -- The Sunset Commission posted the Decision Meeting Materials for its next meeting which will be held beginning at 12:00 noon in Austin, Texas on January 9, 2019. Commission Member Senator Robert Nichols (R-Jacksonville) proposed a modification which, in lieu of consolidation with the Texas Board of Professional Engineers, would continue the TBPLS for six years until 2025. Additionally, Senator Nichols proposed several new recommendations which include training for board members, requiring written quarterly reports to the Sunset Staff regarding the implementation of Commission recommendations and performance information, and requiring the agency to review and update its policies and procedures for performance measure and financial data reporting.

**January 7, 2019** – TSPS advised the Sunset Advisory Commission Members that TSPS strongly supports the modification and recommendations proposed by Senator Nichols. Additionally, TSPS issued a Legislative Call to Action requesting that all members contact the Sunset Commission members and request that they please

support the TBPLS by voting "for" the modification and new recommendations proposed by Senator Nichols.

**January 9, 2019** – The Sunset Advisory Commission voted by a narrow margin to approve the Sunset staff recommendation to consolidate the Texas Board of Professional Land Surveying and the Texas Board of Professional Engineers to create the Texas Board of Professional Engineers and Land Surveyors.

**January 26, 2019** – The TSPS Board of Directors approved the following Motion:

**GOVERNMENTAL AFFAIRS – Bill O'Hara**

*MOTION...I move to adopt the resolution as presented with the addition of a secondary safety net bill.*

**RESOLUTION**

*BE IT RESOLVED that TSPS supports the TBPLS Sunset bill as recommended by the Texas Sunset Advisory Commission to consolidate the Texas Board of Professional Land Surveying and the Texas Board of Professional Engineers to create the Texas Board of Professional Engineers and Land Surveyors, to include an amendment (a) creating a land surveying advisory committee; (b) providing that the new consolidated Board may not adopt a new rule relating to scope of practice or professional and technical standards for the land surveying profession unless the rule has been proposed by the advisory committee; and (c) if possible, adding one or more land surveyors as voting members of the consolidated Board. In addition, TSPS will introduce a secondary safety net bill to continue TBPLS as an independent agency for two years should the sunset bill not pass.*

**SECONDED and CARRIED; Show of hands vote – 27 yay/0 nay.**

*MOTION ... I move that TSPS mail a letter to all licensees and certificate holders in Texas notifying them of the current statue of Sunset and the approved TSPS position.*

**SECONDED and CARRIED; Show of hands vote – 25 yay/1 nay/1 abstention.**

**March 11, 2019** – TSPS notified all TSPS members as follows:

The House Committee for Licensing & Administrative Procedures has scheduled a Public Hearing for tomorrow, Tuesday March 12th at 8:00 am in Room E2.028 of the Capitol Extension. HB 1523 by Representative Poncho Nevarez; 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, is on the schedule.

TSPS leadership will attend the hearing and be prepared to testify in support of the bill with the proposed amendment. The amendment defines the Registered Professional Land Surveyors Advisory Committee which will provide advice, recommendations and approvals to the new combined Board on matters related to the regulation of professional surveying.

**We ask that you contact members of the House Licensing & Administrative Procedures Committee asking for their support of HB 1523 with the proposed amendment.**

**March 13, 2019** – TSPS held the TSPS Legislative Day at the Capitol. Members advocated for the Sunset Advisory Commission recommendations in the Sunset Bill and for an amendment creating a land surveying advisory committee and increasing the number of RPLSs on the new Board.

**HB 1523 by Nevarez** – Sequence of events regarding the TBPLS Sunset Bill:

- **February 28, 2019** – Filed in the House.
- **March 25, 2019** – Reported favorably as substituted by the House Licensing and Administrative Procedures Committee.<sup>1</sup>
- **April 9, 2019** – Passed the full House with the following amendments:
  - (1) **Amendment by Representative Ashby** – This amendment requires the formation of an advisory committee composed of five land surveyors with the provision that the full 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 of the advisory committee”*.
  - (2) **Amendment by Representative Geren** – This amendment removes the registration requirement of a bachelor’s degree and reduces the number of hours of surveying related courses from 32 to 16.

Prior to the House vote, TSPS issued a call to action to the TSPS membership requesting that they contact the members of the House in support of the Ashby Amendment and in opposition to the Geren Amendment. Additionally, TSPS advised all House members in writing as to our position on the two amendments.

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<sup>1</sup> Did not include the land surveying advisory committee or an additional land surveyor on the consolidated Board.

- **April 27, 2019** – The TSPS Board of Directors approved the following Motion:

**GOVERNMENTAL AFFAIRS**

*MOTION: ... that the Governmental Affairs Committee make these recommendations to the Board of Directors at today's meeting.*

*Whereas, the TBPLS Sunset Bill, HB 1523 by Nevarez, has passed the House and is scheduled for a public hearing in the Senate Business and Commerce Committee beginning at 8:00 am on Tuesday, April 30, 2019.*

*Now, therefore the TSPS Executive Committee recommends that, going forward, TSPS support HB 1523 as it passed the House with the following revisions listed in order of preference:*

**Option 1**

1. *Delete SECTION 1.52 of HB 1523 (the Geren amendment); and*
2. *As proposed by the Sunset staff, amend Chapter 1001, Occupations Code, by adding a new section to read as follows:*
  - a. *"Sec. \_\_\_\_\_. The board by rule, after considering advice and recommendations from the land surveyors advisory committee, may waive all or part of the bachelor's degree requirement for an applicant for registration as a registered professional land surveyor. The board may not waive the requirement unless the board first determines that:*
    - i. *The applicant possesses sufficient qualifications including an associate degree to justify the waiver; and*
    - ii. *Issuing the registration to the applicant does not pose a threat to the public health, safety, or welfare."*

**Option 2**

1. *Amend SECTION 1.52 of HB 1523 (the Geren amendment) as follows:*
  - a. *Increase the number of semester hours for applicants who have earned an associate or bachelor's degree from 16 to 32 semester*

hours in a combination of courses listed in current law; and

- b. Add a new provision which requires that an applicant with an associate degree must have at least an additional six years' experience performing surveying in delegated responsible charge.

**Option 3**

*In the event that option 1 and option 2 fail, the Executive Committee has the authority to take action as appropriate.*

**SECONDED and CARRIED**

- **May 17, 2019** – Reported favorably as substituted by the Senate Business and Commerce Committee.<sup>2</sup>
- **May 20, 2019** – Passed by the full Senate.
- **May 25, 2019** – Conference Committee Report filed, which included revisions to the Ashby Amendment and the Geren Amendment as previously approved by the House (see attachment).
- **May 26, 2019** – House adopts Conference Committee Report.
- **May 26, 2019** – Senate adopts Conference Committee Report.
- **May 29, 2019** – Sent to the Governor.
- **June 14, 2019** – Signed by the Governor effective September 1, 2019.

**May 29, 2019** – TSPS President John Bernard sent the following correspondence to all TSPS members:

*TSPS Members:*

*Now that the legislative session has ended, I wanted to thank you for your efforts in both the Texas House and Senate as the Sunset Bill moved through the legislative process. The Sunset Bill endured several curveballs, but I'm proud of TSPS and our collective ability to make a positive impact on the final bill. We have a respected voice at the legislature and that is a testament to the professional interactions that our*

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<sup>2</sup> Did not include the land surveying advisory committee or an additional land surveyor on the consolidated Board. Revised the Geren Amendment so as to (1) reinstate the 32 semester hours registration requirement; (2) require a bachelor's degree; and (3) allow the Board to waive the 4-year degree requirement if the applicant has an associate degree and the Board determines that the applicant possesses sufficient qualifications to justify the waiver and does not pose a threat to the public health, safety, and welfare.

*members and representatives have had at the Capitol this session. One Senator mentioned specifically to me that he appreciates the businesslike approach that surveyors have taken with the Sunset issue. Good job to the many volunteers who played a role in our advocacy efforts this session. And, thank you to Mark Hanna, DJ Kyle and the rest of the TSPS staff for their enormous effort, good counsel and valuable contributions to the surveying profession.*

*I am pleased that the surveying profession will continue to be regulated and that the Sunset Commission and Legislature have been emphatic about the need for a well-regulated surveying profession. TSPS was successful in proposing and securing the Land Surveying Advisory Committee to bring a greater voice from surveyors into the regulatory process. And, TSPS was able to influence the proposed changes to the RPLS education requirements. The enrolled version of HB 1523 as passed by the House and Senate is available for your reference. We expect Governor Abbott to sign the bill into law in the next few weeks.*

*Texas now joins numerous other states with combined engineering and surveying boards. This is an effective partnership in other states and it now becomes our goal to make the very best of the new arrangement for land surveyors in Texas. TSPS is looking forward to working with the Texas Board of Professional Engineers and Land Surveyors (TBPELS) and will endeavor to be a strong voice for our members.*

*Thank you,*

*John Barnard  
TSPS President*

For additional information regarding the foregoing, contact TSPS Legal Counsel Mark J. Hanna, 2414 Exposition Boulevard, Suite A-1, Austin, Texas 78703; telephone: (512) 477-6200; facsimile: (512) 477-1188; electronic mail: mhanna@markjhanna.com.

Respectfully submitted,



Mark J. Hanna

*Attachments*



**ATTACHMENT**  
**HB 1523 CONFERENCE COMMITTEE REPORT**  
**REVISED ASHBY AMENDMENT**

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

15           Sec. 1001.216. ADVISORY COMMITTEES. (a) The board shall appoint an  
16 advisory committee for the purpose of providing advice and recommendations to  
17 the board on matters related to the regulation of land surveying. The advisory  
18 committee must consist of five or more individuals appointed by the board, at least five of  
19 whom must be land surveyors.

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

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

**ATTACHMENT**  
**HB 1523 CONFERENCE COMMITTEE REPORT**  
**REVISED GEREN AMENDMENT**

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

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

17           SECTION 1.52. Section 1071.234, Occupations Code, is amended by  
18 amending Subsection (a) and adding Subsection (c) to read as follows:

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

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

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

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

29           (A) civil engineering;

30           (B) land surveying;

31           (C) mathematics;

32           (D) photogrammetry;

- 33 (E) forestry;  
34 (F) land law; or  
35 (G) the physical sciences.

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

- 39 (1) the applicant possesses sufficient qualifications to justify the waiver; and  
40 (2) the applicant's registration does not pose a threat to the public health,  
41 safety, or welfare.