



# TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS



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## Geoscience Legislation Update

### Board Members

- Y. Lynn Clark, P.G.**  
Chairman, Dallas, Tx
- Barbara O. Roeling, P.G.**  
Vice-Chair, Austin, Tx
- Glenn R. Lowenstein, P.G.**  
Sec/Treasurer, Houston, Tx
- Kelly Krenz Doe, P.G.**  
Houston, Tx
- Dr. Charles T. Hallmark, P.G.**  
Hearne, Tx
- Ronald L. Kitchens**  
Harper, Tx
- Gregory C. Ulmer, Esq.**  
Houston, Tx
- Charles S. Knobloch, P.G.**  
Houston, Tx
- Ben Harris**  
Plano, Tx

There are lots of things to report in this expanded column, the last I will write as Chairman of the Texas Board of Professional Geoscientists (TBPG). The 81<sup>st</sup> Legislature that recently adjourned passed two bills dealing with the public practice of geoscience, SB 940 and HB 2820, making this the most significant session for geoscience in Texas since the original passage of the Geoscience Practice Act by the 77<sup>th</sup> Legislature in 2001. Should you have the opportunity, please thank Senator Jeff Wentworth and Representatives Warren Chisum and Norma Chavez for authoring the Senate Bills and House Bills, respectively. Also, though defeated for re-election last November, former Representative Tony Goolsby still helped to secure the sponsorship of these three effective legislators before he left office.

The Governor subsequently vetoed HB 2820 (more on that later), leaving SB 940 as the only bill that has actually become law. SB 940 amends the original Geoscience Practice Act with the following three important items:

Geoscientist-In-Training (GIT) Program. The TBPG now has authority to create a GIT program. In some respects, the GIT program may resemble engineering's EIT program. The GIT program will help formalize career tracks for young and/or inexperienced geoscientists, those meeting the academic qualifications for licensure but lacking the qualifying experience. The GIT program will help prospective Professional Geoscientist candidates obtain mentoring from more experienced, licensed PGs. The overall objective of a GIT program is ultimately to serve the public by developing more qualified and better prepared candidates for PG licensure.

Self-Initiated Complaints. There is no longer any ambiguity as to whether or not the TBPG can self-initiate investigations of apparent or suspected violations of the Geoscience Practice Act or Board Rules. The primary significance is that the Board does *not* have to receive a formal, written and signed complaint to begin an investigation into a potential violation.

Advisory Opinions. TBPG can now prepare formal Advisory Opinions (AOs) that interpret the Geoscience Practice Act and Rules and the application of same to existing or specific hypothetical situations. An AO will provide guidance to licensees, the public and other stakeholders. For the first time, it can be a legal defense to prosecution or to imposition of a civil penalty that a person reasonably relied on a written TBPG AO.

The TBPG's new initiatives and newly-expanded programs will further establish Texas geoscience as the national standard for safeguarding the public trust and for ethical, professional conduct within the profession. Texas PGs will find their license to be ever more valuable in the public, professional and commercial arenas, both within the state and nationally.

Governor Ann Richards once said something like, "Don't pass the bill if you can't fill the till". Sound advice then and now, and that brings up the topic of Board funding and how that impacts PG license and Geoscience Firm registration fees.

Some believe that PG license fees and Geoscience Firm registration fees go directly to the TBPG. They do not. All fees are considered revenue and always go directly to the state's General Fund. TBPG, like most state agencies, goes before the legislature every two years to request an appropriation (i.e., money) to operate. TBPG has always been a "donor"

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agency, and only receives approximately half the fee revenue it generates.

The appropriation process requires state agencies to project budgets almost three years into the future; TBPG's 2010/2011 Legislative Appropriation Request (LAR) for the upcoming biennium (beginning 1 September 2009) had to be submitted early last year (2008). Around that time, I and others were advising any representative or senator who would listen that big things were afoot in geoscience and that more funding and resources were needed. These legislators invariably said that geoscience was extremely important to the state and increasing TBPG's appropriation should not be a problem. Legislators' good intentions aside, an unprecedented string of events has since occurred – the national economy tanked, a hurricane raked our gulf coast, oil and gas prices cratered, and the State's hard-won budget surplus just disappeared.

The requested appropriation increase in TBPG's 2010/2011 LAR amounted to a little more than “half of the half” of the revenue TBPG generates but doesn't receive. During testimony, TBPG asked for a larger percentage of this revenue. Unfortunately, the 81st Legislature decided that ALL existing revenue from ANY source was spoken for. TBPG's LAR was approved, but with a big string attached – TBPG must raise additional funds.

The Board's options for generating funds are extremely limited. The only way TBPG can realistically raise revenue is by raising license and registration fees. It first appeared that to satisfy the State Comptroller's Office, annual PG license fees would have to be increased by approximately \$70. The Board was eventually able to work this down to a proposed PG license fee increase of \$55. The proposed increases in registration fees for Geoscience Firms and sole proprietors are \$150 and \$25, respectively. The corresponding Rule change was published in the 10 July 2009 Texas Register.

The Board understands that increased fees may not be viewed favorably by all licensees and firms. But please consider that Texas has more geoscientists than any state and arguably the most progressive programs. Without fee increases, TBPG will not receive an appropriation increase. And without that appropriation increase, TBPG cannot hire needed staff and update its aged hardware and outdated software resources. The bottom line is that without additional money it is unlikely the new and improved programs can be effectively implemented.

Now, back to the second piece of legislation. Both bills were originally filed as pairs of identical, or companion, bills (SB 940/HB 2821 and SB 941/HB 2820) in the Senate and House. The Senate passed its bills (SB 940 and SB 941) first and sent them to the House for consideration. In the House, SB 940 replaced HB 2821, passed the full House, and was sent to the governor for signature. While that was happening, HB 2820 was being amended in a House committee. Since amended HB 2820 was no longer identical to its companion SB 941, HB 2820 became the bill that moved forward.

As originally filed, SB 941/HB 2820 added geoscience and PGs to all parts of the Professional Services Procurement Act. That law contains a list of “professional” occupations and designates a smaller subset of those professions (architecture, engineering and surveying) for which state agencies or public entities must procure services through a process called qualification-based-selection (QBS). The amendment to HB 2820 added landscape architects (already in the “list” of professional occupations) to the QBS section. HB 2820 was later amended a *second* time to add up-front pricing provisions to the QBS section of the Professional Services Procurement Act. There was so much opposition for that second amendment that it was subsequently removed.

Separately, the Governor's office strongly supported adding up-front pricing provisions to the Professional Services Procurement Act – enough so that Governor Perry later *vetoed* HB 2820 after it had passed both houses, apparently because it did *not* contain pricing provisions. The Governor's office explained the veto by asserting that HB 2820 would “prevent price-based competition for services by geoscientists and landscape architects”.

Many would argue that HB 2820 would *not* have prevented price-based competition for any services, since initial selection based on qualifications without regard to price does *not* mean contracting without regard to price. With regard to professional services that can impact public health, safety and welfare, what QBS is *supposed* to do is insure the primary considerations for selection are experience, documented performance and demonstrated competency. Under QBS, after the most-qualified professional firm is identified, government

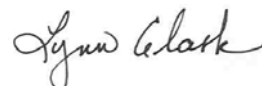
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entities enter into pricing negotiations with that firm. If contract terms (i.e., pricing) acceptable to the government entity are not offered by the most-qualified firm, then the contracting negotiations are terminated and the government entity begins negotiations with the second-most-qualified firm. If the second-most-qualified firm does not offer acceptable pricing, the government entity begins negotiations with the third-most-qualified firm. This process is repeated until the government entity reaches a pricing accord with a firm. At that point, the government entity contracts with the (presumed) best-qualified firm that is willing to work for what the government entity is willing to pay. Many believe that outcome represents the very essence of “best value for taxpayers”.

Another bill to add PGs and geoscience to the Professional Services Procurement Act may be re-introduced in the next (82nd) legislative session. In the meantime, the Board encourages PGs to consider the implications for the profession and public and let legislators know if they should support such a bill.

It has been a privilege and honor to serve as TBPG Chairman. I hope my performance and conduct have reflected favorably on the agency. I greatly appreciate the Board Members who helped prepare me to serve as a Board officer and I pledge to do my best to help the Members listed below who will be our next slate of officers.

This tough economic climate will pass, and the future for our great state and honorable profession is indeed bright. Many thanks to all Texas Professional Geoscientists for supporting your Board and profession.



### ***New Board Officers***

Congratulations to Barbara O. Roeling, P.G., Ronald L. Kitchens, and Dr. Charles T. Hallmark, P.G. on their election as TBPG Chair, Vice-Chair and Secretary/Treasurer, respectively. Their terms will begin on August 14, 2009.

### ***Fond Farewell***

TBPG would like to bid a very fond farewell to two of its Founding Members, Gordon Ware, P.G. and Rene D. Pena, CPA. These gentlemen served terms that began in 2002 and expired on February 1, 2009. During their terms, Ware served as Chair and Pena as Secretary/Treasurer and Vice Chair. The agency wishes to express its gratitude for these Members’ invaluable, selfless service. Thank you for the countless hours of devotion and hard work you have contributed to the agency’s mission! You will both be greatly missed!

### ***Welcome New Board Members***

*The Texas Board of Professional Geoscientists (TBPG) is proud to welcome its newest Board Members. These Members were appointed by Governor Rick Perry, confirmed by the Senate on May 5, 2009 and were sworn in at the June 26th Board meeting.*

Ben Harris of Plano is a cardiovascular institutional sales professional for Sanofi-Aventis Pharmaceuticals. He is chair of Leadership Plano, and a member of the Plano Youth Leadership Board of Directors. He also coordinates public relations for the Children’s Organ Transplant Organization. Harris received a bachelor’s degree from the University of Texas at Austin. He is a Public Member, replacing Rene D. Pena, CPA of El Paso.

Charles S. Knobloch, P.G. of Katy is a geophysicist and intellectual property attorney (partner) at Arnold and Knobloch LLP. He is a member of the American Bar Association, Society of Exploration Geophysicists, Houston Intellectual Property Law Association, Drilling Engineers Association, Geophysical Society of Houston, and Houston Geological Society. He currently serves on the

Industrial Advisory Board for Michigan Technological University and is a member of their Distinguished Academy for geosciences. He is a Professional Member, replacing Gordon Ware, P.G. of Houston. He can be reached at: charles@aklaw.com.

Member Kelly Krenz-Doe was re-appointed to another full term, making her the last Founding Member still serving on the Board. She is a senior project manager for AECOM. She is a member of the Environmental and Engineering Geophysical Society and North Houston Association Environmental Committee. She is also past president of the Water Environment Association of Texas and Texas Hazardous Waste Management Society, and a volunteer mentor for IMPACT Mentoring at Spring Branch Middle School. Krenz received a bachelor’s and master’s degree in geology from Northern Illinois University. She is a Professional Member.

These appointments will expire February 1, 2015.



**TEXAS BOARD OF  
PROFESSIONAL GEOSCIENTISTS**

P O Box 13225  
Austin, TX 78711  
Phone: 512/936-4400  
Fax: 512/936-4409

Charles Horton, Interim Executive Director 512/936-4401

<u>Licensing</u>	<u>Enforcement</u>	<u>Finance</u>	<u>Administrative Support</u>
Annita Herrera Director of Licensing 512/463-6757	Alberto J. Jimenez, P.G. Investigator 512/936-4406	Vincent R. Houston CFO 512/936-4403  Leticia Kappel Accountant 512/936-4404	Molly Roman Admin. Coordinator 512/936-4405

The office of the Texas Board of Professional Geoscientists is located at 333 Guadalupe, Tower 1, Suite 460A, Austin, Texas, 78701 and is open Monday-Friday, 8am-5pm.

***The mission of the Texas Board of Professional Geoscientists is to protect public health, safety, and welfare by ensuring that only qualified persons carry out the public practice of geoscience.***

Visit our website at [www.tbpg.state.tx.us](http://www.tbpg.state.tx.us).

## New Licensees

Sameer Chandra, PG #10511, San Antonio, TX  
Christina M. Higginbotham, PG #10527, Katy, TX  
Bruce Speidel, PG #10532, Sykesville, MD  
Frank H. Syms, PG #10533, Augusta, SC  
Marsha J. Andrews, PG #10534, Calera, AL  
James A. Lawrence, PG #10535, Flowery Branch, GA  
Scott M. Kolodziej, PG #10536, Dallas, TX  
Kevin F. Lincicum, PG #10537, Waukesha, WI  
John H. Weitz, Jr., PG #10538, Morganville, NJ  
Matthew Webre, PG #10562, Austin, TX  
Steven Woodhull, PG #10563, Phoenix, AZ  
Terry Virtue, PG #10564, San Antonio, TX  
Olusola Ayilara, PG #10565, Wylie, TX  
Dana D. Coryell, PG #10566, Richardson, TX  
James B. Ellis, PG #10567, Austin, TX  
Kevin P. Mandeville, PG #10568, Austin, TX  
James G. Collins, PG #10569, Arlington, TX  
Robert Dedoes, PG #10570, Kathy, TX  
Brian McCord, PG #10571, Marleton, GA

Wes M. Leon, PG #10572, Tallahassee, FL  
Marc E. Gentry, PG #10573, Houston, TX  
Edward A. Zarecky, PG #10574, Mansfield, TX  
Thomas J. Bauman, PG #10575, Elkhorn, WI  
Jason T. Minter, PG #10576, Arlington, TX  
John B. Wehunt, PG #10577, Conroe, TX  
Douglas W. Charlton, PG #10578, San Rafael, CA  
Jennifer Lela, PG #10579, San Antonio, TX  
Wayne Kellogg, PG #10580, Ava, OK  
James H. Harris, PG #10581, Rancho Viejo, TX  
Doug Laymon, PG #10582, Cedar Park, TX  
Sonya Y. Hernandez, PG #10593, Austin, TX  
Grant B. Chambless, PG #10598, Round Rock, TX  
Ronald F. Nichols, PG #10599, Lake Dallas, TX  
Aaron T. Broughton, PG #10600, Houston, TX  
James E. Knight, PG #10602, Forrest City, AK  
Stephen D. Wolford, II, PG #10604, Woodlands, TX  
David Bean, PG #10605, Fresno, CA

## Calendar of Upcoming Events

- ASBOG® registration deadline– **August 5, 2009 at 5p.m.**; national exam date– **October 2, 2009**, Austin, Texas
- Board meeting– **August 14, 2009**, Austin, Texas
- CSSE national exam registration– **August 24-October 9, 2009**; national exam date–**November 20, 2009**
- Check the TBPG website for future committee meeting dates and agendas.



In the interest of conservation and environmental consciousness, many of our licensees have elected to receive this newsletter by email and are reading it *right this minute!* Be one of the first to know; submit your current email address to [webmaster@tbpg.state.tx.us](mailto:webmaster@tbpg.state.tx.us) for future newsletters, updates and information.

*It's a green idea...it's a GREAT idea!*