

**MINUTES  
BOARD MEETING  
HEARING ON PROPOSED RULES  
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS  
VIA VIDEOCONFERENCE  
October 14, 2020-8:30 AM**

**1. Call to Order.**

Dr. Sina K. Nejad, P.E., P.Eng., Presiding Officer, called the Hearing on Proposed Rules Board meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 8:31 a.m. via Videoconference.

**The following Board members were present:**

Dr. Sina K. Nejad, P.E., P.Eng.	Chair
Lamberto Ballí, P.E.	Vice-Chair
Rolando Rubiano, P.E.	Secretary
Albert Cheng	Treasurer
Ademola Adejokun, P.E.	Member
Coleen Johnson, R.P.L.S.	Member
Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
Catherine Norwood, P.E.	Member
Kiran Shah	Public Member

**The following staff members were present:**

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Janet Sobieski	Director of Operations
Mason Schoolfield	Lead Systems Developer
Cristabel Bodden	Executive Assistant

**The following visitors were present:**

Steven J Freeman II, R.P.L.S.; Edmundo Gonzalez, P.E., R.P.L.S., Advisory Member; Charlie Gutierrez, R.P.L.S.; Josh W. Leamons, R.P.L.S., ESQ; Mike Lewis, R.P.L.S.; Govind Nadkarni, P.E., Advisory Member; Bill O'Hara, R.P.L.S., L.S.L.S.; Frank Owens, R.P.L.S.; Mark Paulson, R.P.L.S.; Tom Richardson, R.P.L.S.; Felix Rodriguez, R.P.L.S.; Roger Salazar, R.P.L.S., and Cyril Turner, R.P.L.S., were present via Videoconference.

**2. Public hearing to receive comments from interested persons concerning proposed rule changes under Texas Occupations Code §§1001.101 and 1001.202, which provides the Texas Board of Professional Engineers and Land Surveyors (TBPELS) with the authority to promulgate and adopt rules**

consistent with the Act governing its administration, including rule amendments, new rules, and rule repeals of the following rule Chapters:

- **22 Tex. Admin. Code Chapter 131, Organization and Administration** (as published in the August 7, 2020, issue of the Texas Register)
- **22 Tex. Admin. Code Chapter 134, Licensing, Registration, and Certification for Surveyors** (as published in the August 7, 2020, issue of the Texas Register)
- **22 Tex. Admin. Code Chapter 136, Surveying Firm Registration** (as published in the August 7, 2020, issue of the Texas Register)
- **22 Tex. Admin. Code Chapter 138, Compliance and Professionalism for Surveyors** (as published in the August 14, 2020, issue of the Texas Register)
- **22 Tex. Admin. Code Chapter 139, Enforcement** (as published in the August 7, 2020, issue of the Texas Register)

**Any interested person may appear and offer comments or statements, either orally or in writing; however, questioning of commenters will be reserved exclusively to the Texas Board of Professional Engineers and Land Surveyors or its staff as may be necessary to ensure a complete record. While any person with pertinent comments or statements will be granted an opportunity to present them during the hearing, TBPELS reserves the right to restrict statements in terms of time or repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views or similar comments through a representative member where possible. Persons with disabilities who have special needs and who plan to attend the meeting should contact Cristabel Bodden of TBPELS at 512-440-3051.**

Dr. Kinney stated that the written comment period had closed for these rules. However, any interested person can make comments today.

Mr. Josh W. Leamons, R.P.L.S., ESQ, addressed the Board on rule §134.67 – Examination on the Principles and Practice of Surveying. Mr. Leamons stated that he opposed the proposed change to rule §134.67 because the current exam is fair and reasonable and tests the residents of Texas who are seeking licensure as a Registered Professional Land Surveyors (RPLS). He opined that the National Council of Examiners for Engineering and Surveying (NCEES) Professional Surveyor (PS) exam is currently being re-organized into modules to better serve the state of Texas and the unique laws and traditions in Texas. Once this process is complete, the Board should re-examine the proposal to move to the PS exam. However, this change should not be made at this time.

Mr. Leamons believes it is important to protect the public by using an exam that is relevant to Texas and would be the best for young students taking the exam to have as few changes to the exam as possible and by not making these frequent exam changes, examinees will be able to pass these exams more frequently and join the ranks of registered surveyors.

Mr. Leamons addressed proposed rule §136.3 – Application for a Certificate of Registration with the Board. Mr. Leamons opposes this rule because it would allow one firm to have multiple branch offices while employing only one RPLS. This rule should not be consistent with that of the Engineers. Engineers work a little differently than Land Surveyors. Land Surveyors follow the footsteps of the original

surveyors dating back 200 years and we often do this with field crews. If you are using field crews trying to follow footsteps that are 200 years old, you will not be able to do this by a proxy that you have never met in an office that you never go to and with staff that are unlicensed and unexperienced. It just does not work this way. He concurred that there only needs to be one firm number per firm. This would simplify the process but there should be a requirement that each office location have one RPLS designated as the RPLS in charge of operations of that office. (Note: Mr. Leamons also submitted his comments in writing. They are included as an appendix to these minutes.)

Mr. Steven J Freeman II, R.P.L.S., addressed the Board on rule §134.67 – Examination on the Principles and Practice of Surveying. Mr. Freeman stated that he agreed with Mr. Leamons on rule §134.67. Mr. Freeman stated that he is aware that the NCEES is working on these modules specific to Surveyors in Texas, but it has not been vetted through this Board and the Surveying Advisory Committee. Mr. Freeman stated that he would like to see the modules vetted before the Board and the Surveying Advisory Committee before any major physical transitions are made. In his opinion, the current exam is the best option at this time.

Mr. Freeman addressed Chapter §131.15 – Committees with the Board. Mr. Freeman stated that under the current Act, the Surveying Advisory Committee is a standing committee, and he is trying to figure out why the Board did not consider making it a standing committee during the proposed rule change. It is his opinion that the Board is not fully considering the comments from the Surveying Advisory Committee. He doesn't feel that the Board nor the Surveying Advisory Committee looked at the prior rule and the major changes that were being made, especially to the firm aspect, in the way it is currently written under rule §661.57(2) – Land Surveying Firms Compliance.

Mr. J. Stan Piper, R.P.L.S., P.L.S., L.S.L.S., addressed the Board. Mr. Piper stated that he agrees with Mr. Leamons and added that if you look at the background of complaints that surveyors have, supervision and research are very important and Mr. Piper believes that supervision in person or very closely on-line is extremely important and requires a surveyor per office.

Mr. Bill O'Hara, R.P.L.S., L.S.L.S., addressed the Board. Mr. O'Hara stated that as a member of the previous Board of Professional Land Surveyors, they had worked on a rule regarding the firm registration and also the rules requiring supervision of all surveying activities by a registered surveyor in every office including branch offices. This new proposed rule that does not require this and is being construed that a surveyor operating from the company headquarters can manage crews working out of a branch all over the state, is an inherent danger and risk to the health, safety, welfare, and property of the public and should be considered.

Mr. O'Hara stated that he is in favor of the NCEES PS examination process for registering surveyors in Texas on the condition that we have a good state-specific exam to go with it and understands that NCEES is working on a Texas module but does not know when it is going to be ready or what the timeline is. Mr. O'Hara stated and believes that we need to move toward the PS exam, but we have to have a solid-state specific exam in place at the same time.

No action was required on this agenda item.

Dr. Nejad thanked the participants that provided comments to the Board. Dr. Nejad stated that if one did not provide comments today, they could still do so via email.

### **3. Adjourn.**

Dr. Nejad adjourned the hearing at 8:59 a.m.



Individuals needing auxiliary aids or services should contact the Texas Board of Professional Engineers and Land Surveyors at (512) 440-3051, in a timely manner.

## **Appendix 1: Written Comments of Josh Leamons, RPLS, Esq.**

My name is Josh W. Leamons. I am a registered surveyor from Fredericksburg, Texas. I am here in my individual capacity, not as an officer of TSPS.

Regarding §134.67. Examination on the Principles and Practice of Surveying.

I oppose this rule change. The current exam fairly and reasonably tests residents of Texas who are seeking licensure as an RPLS. The PS exam is being organized into modules to better serve states with unique laws and traditions like Texas. Once that process is complete, the BOARD should reexamine the proposal to move to the PS exam, but the change should not be made at this time.

It is important to protect the public by using an exam that is relevant to Texas. Also, it will be best for those who will be preparing for the RPLS exam to have as few major changes to their exam as possible. By not making frequent changes, the examinees will be more likely to pass the exam and join our ranks as registered surveyors.

Regarding §136.3. Application for a Certificate of Registration.

I oppose this rule change in its current form because it will allow one firm to have multiple offices while employing only one RPLS. While I believe that it is a good idea to make the rules for Engineers and Surveyors more consistent, I do not believe that should be done blindly. There are times when it is important to understand the differences between engineers and surveyors.

I employ a civil engineer, and have worked for an engineer in the past. Civil engineers have to consider the following: 1. What is the slope of the ground as it exists now?, 2. What is the compaction of the soil as it currently exists?, 3. Are there any current or future drainage concerns?, 4. What are the current standards and regulations?, and 5. Will this meet the current needs of my client?

Surveyors are different in that we are instructed to follow in the footsteps of the original surveyor. We cannot do this by proxy with unlicensed staff, such as field crews, who are not supervised by an RPLS. Following 50 year to 200 year old footsteps takes training, experience, and expertise that unlicensed staff rarely have.

There only needs to be one firm number per firm, but there should be a requirement that each office location be assigned an RPLS who is in charge.