

**Abstract:** Updates on Board rule changes within the last year, general updates on initiatives the Board is working on, information on enforcement statistics, and the engineering Code of Conduct.

**Title: “Texas Board of Professional Engineers – Professional Practice Update”**

**Speaker Bio:**

**Rick Valdes, Texas Board of Professional Engineers, Investigator IV** is an Investigator IV with the Compliance & Enforcement Department, Texas Board of Professional Engineers. He has over 24 years of experience as an investigator with the State of Texas; eleven of those years with the Board. As an investigator, Rick ensures that the TPBE Act and Board Rules are followed and also investigates complaints that are received by the Board regarding violations to the Act and or Board Rules.

Rick has worked for the Travis County Sheriff’s Department, and the Texas Department of Licensing and Regulation and while there, was the Program Manager of Professional Boxing for the State of Texas. Additionally, Rick was also the Supervising Investigator for the Texas Real Estate Commission before joining our team.

Rick has a Bachelor’s Degree in Criminal Justice from Southwest Texas State University ’86, San Marcos, Texas.

**For additional information, please contact:**

Russell Romoser

Secretary SPEE Dallas Chapter

[DallasSPEE@gmail.com](mailto:DallasSPEE@gmail.com)

972-668-0862

Texas Board of Professional Engineers  
*Engineering For A Better Texas*



# Texas Board of Professional Engineers Professional Practice Update / Ethics






Rick Valdes  
Senior Investigator  
November 2016

<http://engineers.texas.gov/outreachsurvey>

*Engineering for a better Texas*

# Website and Social Media

<http://engineers.texas.gov>

- Facebook: Texas Board of Professional Engineers 
- Twitter: TBPE\_Exec 
- LinkedIn: Texas Board of Professional Engineers 
- RSS Feed on our website: <http://engineers.texas.gov> 
- YouTube: <https://www.youtube.com/channel/UCm0YTnjR3StveBxWhCT4MiA> 

# AGENDA

---

- About the Board
- Professionalism
- Outreach/Visibility
- Policy Advisory Opinions
- Legislative Update
- Decoupling
- Board Initiatives

# TBPE

---

Nine Members - Appointed by Governor

- 6 Licensed Professional Engineers
- 3 Public Members
- Standard term is 6 years

# TBPE

---

Daniel O. Wong, PhD, PE

- Chairman - Houston

Lamberto “Bobby” Balli, PE

- San Antonio – Vice Chair

Edward Summers, PhD (public member)

- Austin – Treasurer

Sockalingham “Sam” Kannappan, PE

- Baytown - Secretary

# TBPE

---

Cathy Norwood, P.E.

- Midland

Elvira Reyna (public member)

- Denton County

Sina K. Nejad, PhD, PE, PEng

- Beaumont

Kyle Womack, PE

- Midland

Albert L. Cheng (public member)

# TBPE STAFF

---

31 Staff members, Austin

Lance Kinney, PhD, PE - Executive Director

David Howell, PE – Deputy Executive Director

Dave Daigle - Compliance & Enforcement

Robert Opiela, PE - Licensing

Jeff Mutscher - Finance

Janet Sobieski - Information Technology



# PROFESSIONAL ENGINEER

## BOARD PRIMARY FUNCTIONS

---

- Licensing Qualified Engineers
- Enforcement of Engineering Practice Act
- Requiring Continuing Education
- Educate – PEs, Officials, Potential PEs, Public

# PROFESSIONAL ENGINEER EXPECTATIONS

---

- Protection of the Public
- Ethical
- Competent
  - Initial Qualifications
  - Staying Current
- Professionalism

# Professionalism

---

## More than just Codes and Rules

“Meticulous adherence to undeviating **courtesy, honesty,** and **responsibility** in one's dealings with customers and associates, plus a **level of excellence** that goes over and above the commercial considerations and legal requirements.”

<http://www.businessdictionary.com>

*Engineering for a better Texas*

# Professionalism

---

- Ethical Behavior
  - 60,000 licensed PEs
    - ~750 Cases opened
    - 70% resolved with Voluntary Compliance
    - 12% Dismissed
    - Board action includes range of action up to revocation
  - Responsibility to Protect the Public

# Professionalism

## scenario

---

- You are a licensed PE in multiple states working for a Registered International Firm.
- You have been asked by a client to perform an engineering analysis of the completed work of another Engineer in another state and provide a report to the client.

# Professionalism

## scenario

---

- You had inadvertently let your license expire in the state where the project is located, but you live in Texas and your Texas license is Active and current.

# Professionalism

scenario

**True or False?**

You would be in violation if you performed the work as described.

True. If the other state's licensing rules are like Texas rules, you would be in violation if you perform engineering for a project located in that state if your license is not current.

It does not matter where you are physically located.

# Professionalism

## scenario

---

- You made the choice to do the work.
- The state Board in that state found you in violation and took their lowest level enforcement action against you since you resolved it quickly.
- So... What are you expected to do now?



# Professional Obligation

- A. Take no action. Informal actions do not need to be reported.
- B. Report the actions to the Texas Board at the time of your next renewal.
- C. Report the action to the Texas Board as soon as possible.
- D. Wait for the Board to contact you about the violation to see if it's necessary.
- E. None of the above.

# Answer

- C
- § 137.5 (c) Each license holder shall notify the board in writing not later than 30 days after a misdemeanor or felony criminal conviction, or any sanction is imposed against a licensee by another state's engineering licensing board.

# Filing A Complaint

- Mail, email, phone, facsimile – all are acceptable for initial contact
  - Anonymous complaints are accepted
- A complaint form or detailed letter/email is needed to cover all the bases
  - Forms can be found Online
- Provide specific instances of violation
- Provide evidence to show probable cause

# Enforcement Sanctions

- Reprimands (Formal and Informal)
- Suspension (possible probation)
- Refuse to Renew
- Revocation
- \$5,000 per violation per day
- Cease and Desist Orders
- Emergency Suspension

# Violations are Published

- By law, all violations, except informal reprimands, must be published
  - On TBPE website by Board Meeting Date
  - Added to NCEES Enforcement Exchange (national database)
  - Published in the newsletter which is mailed at least annually and quarterly E-newsletter emails

# Outreach

- What is a P.E.? / What do they do?
- Public Perception
- The Value of Licensure
- How does the TBPE fit in?

# Outreach Publication

## General

*Engineering for a Better Texas*

Agency overview and history



*Engineering for a better Texas*

# History of TBPE

- Created by Texas Legislature (45R) in 1937
- New London School Explosion
  - 300 students and teachers killed
  - Result of improperly designed mechanical and electrical devices
- Established a Board to regulate the practice of engineering through licensing and rules of practice



# Working with Government

- Government Advisory Group
  - State agencies, Cities, Counties, School Districts
- TBPE Outreach
  - Building Officials
  - Texas Municipal League, etc.
- What we can do for them
  - When PE is required on projects / public works
  - Better understanding of State Laws
  - The role of a Professional Engineer

# Outreach Publication

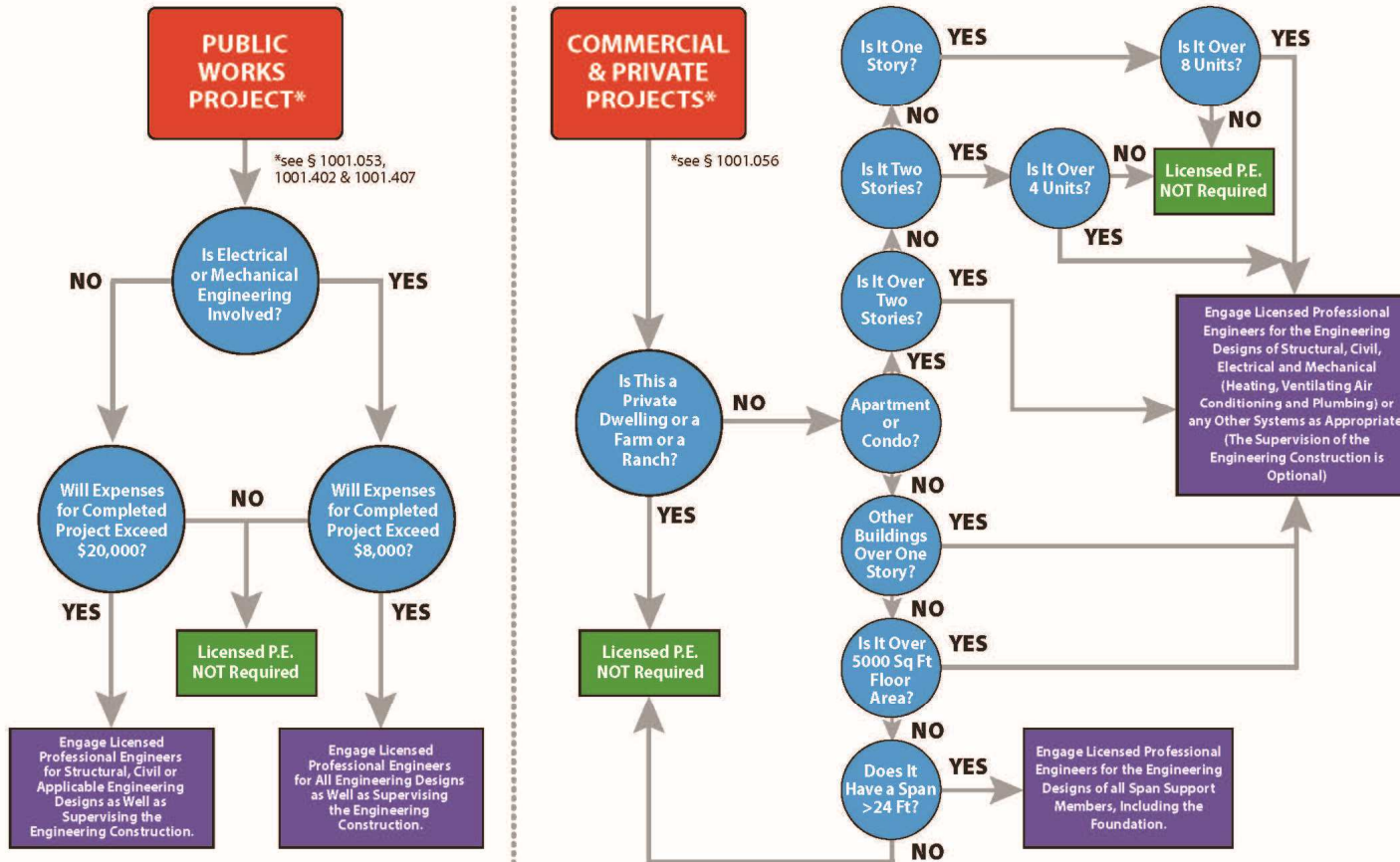
## Government

*When is a Professional Engineer  
required on a project?*

Flowchart to assist building and  
Code compliance officials.



# When is a Professional Engineer required on a project?



This flowchart is intended for guidance purposes only and the Texas Engineering Practice Act and Rules govern final interpretation. Local codes and ordinances may be more restrictive as long as not in conflict with the Texas Engineering Practice Act and Rules.

Visit <http://engineers.texas.gov/downloads.htm> for a copy of the Texas Engineering Practice Act and Board Rules and download this diagram.

# Seal

## scenario

- You are a contract employee for a Firm that is lead on a project has been overseeing all aspects of the design and construction.
- The lead engineer you're working under has a severe health issue is keeping him from the job for an extended time at the same time that there is a deadline for plan submission.

# What should a Texas PE do?

- A. Ask an employee under his supervision to copy his seal and digital signature from the shared drive and use them.
- B. Have the documents sent with his seal and assure the authority that he'll come in to sign them later.
- C. Mark the plans as "preliminary"
- D. Negotiate a new deadline
- E. Sign and seal the plans yourself before the deadline.

# Best Answers

- **C or D** – Mark as preliminary or renegotiate the deadline
- 137.33(d): License holders shall take reasonable steps to ensure the security of their physical or electronic seals and electronic signatures;
- 137.33(e): Preliminary documents are not sealed.
- 137.33(f): Sealed documents require a signature.
- Only the licensee may use his or her seal.
- 137.33(a): A PE can only sign and seal their own work or work under direct supervision.

# A Twist

- What happens if the PE never returns to work?

## True or False?

Another PE can sign and seal the work if the PE performs sufficient calculations to verify the accuracy of the engineering work and make it his or her own work.

**True!**

# More questions

- If you were asked to review, sign and seal the work, can you do it as a Contract Employee?
- Yes.
- What Firm name should be on the document?
- As a contract employee for a company, Board rules would consider you an employee, so you can use the Firm name and number on a document unless the work is subcontracted to you as a separate company (with a separate firm registration).



# Seals

Which of These is Correct?

A



B



C



# And the best answer is?

- **B or C (with the date added)**
- 137.33(f) License holders shall affix their seal and original signature or electronic seal and signature with the date on the final version of their engineering work before such work is released from their control.
- (1) The signature and date shall not obscure the engineer's name or license number in the seal.

# Continuing Education

## Scenario

- You have been licensed for years and have always had more than enough hours for each renewal.
- You misplaced your renewal reminder and the expiration date is in a few days.
- You were busy and haven't completed any continuing education activity this year.

# Continuing Education

What should a Texas PE do?

- A. Go online and renew without completing the Continuing Ed hours and try to take some courses as soon as you can.
- B. Keep working, wait to renew until you have the Continuing Ed hours which could be a few weeks and then renew.
- C. Check your records from last year to see if you had extra hours.
- D. Call the board and ask for an extension.
- E. None of the above.

# Answer

- **C** – You need to have the Continuing Education hours prior to renewing. You can carry forward up to 14 hours from one renewal period to the next, excluding the hour of ethics.
- Self study is limited to 5 hours and can be used for ethics.
- If you don't renew, your license is delinquent and you cannot practice.
- If you do renew and certify that you have completed Continuing Ed but have not, your license is subject to censure.
- Renew in ECHO. It's immediate and you get confirmation.

# Continuing Education

---

- 15 hours – includes no more than 5 hours of self-study and must include one hour of ethics
- Random audits ongoing
- Keep documentation for 3 years
- Over 65 not exempt
- Fines as high as \$5,000; separate violations for claiming Continuing Ed without documentation or not responding to Board.

# Professional Services Procurement Act (PSPA)

- Qualifications Based Selection (QBS) for engineering on public projects
- Responsibilities of Professional Engineers
- Responsibilities of Public Officials in RFQ / RFP process

# Outreach Publication

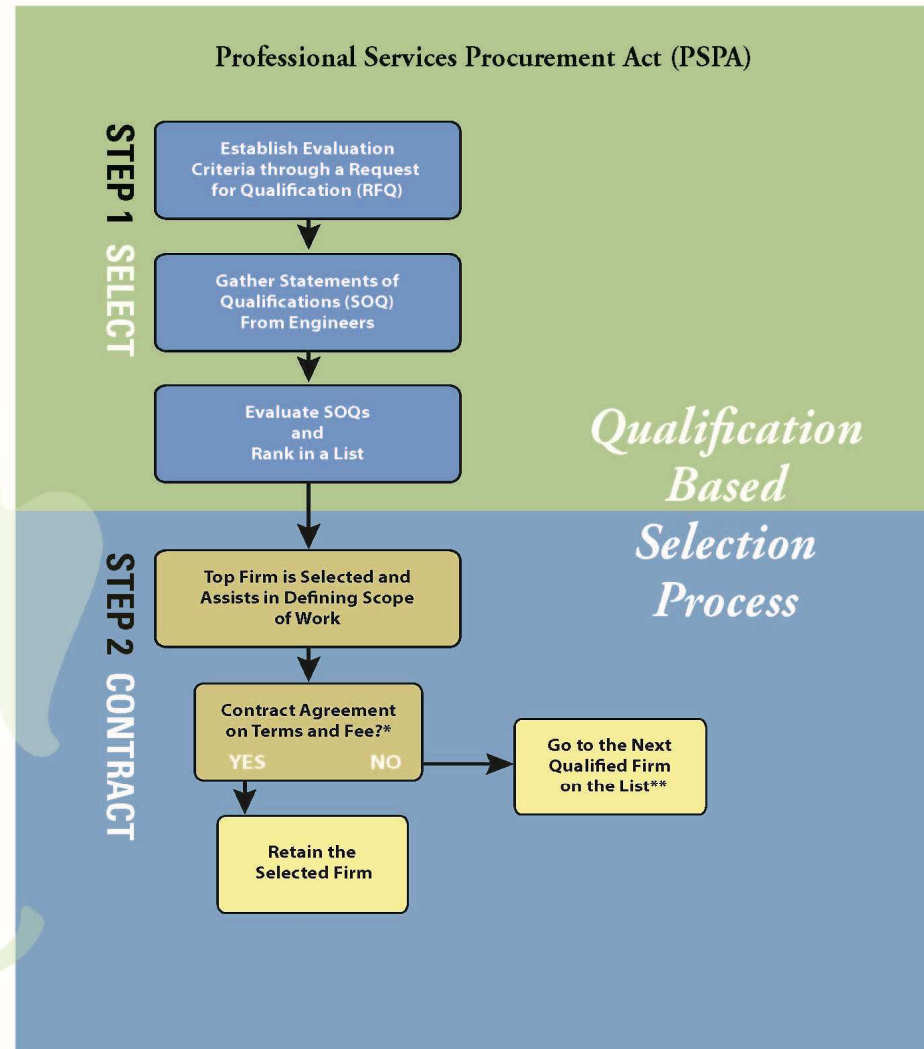
## Government

*What is the Professional Services  
Procurement Act?*

Flowchart to assist building and  
code compliance officials.







\*At no time should the fee proposal of one firm be compared to the fee of another. Agreement on fee should be based on the merits and information of one firm at a time.

\*\*Negotiation with only one company or firm at a time may take place to be in compliance with TAC 2254.004 (b).

# PSPA

## scenario

The local Independent School District has posted a Request For Qualifications (RFQ) for engineering services to design a new Auditorium/Gym. Included in their RFQ is a requirement for the firm to include an itemized list of employees and their salaries in a sealed envelope to be opened after selection.

# PSPA

## scenario

- As a properly registered firm with licensed engineers your firm wants to respond to this RFQ for consideration.
- As the licensed professional engineer responsible for responding to such RFQs you prepare your firm's credentials and experience into a proper response.

## What is the least appropriate response?

- A. Include the list of your employees with the required salaries in a sealed envelope.
- B. Include a list of your employees without salaries in a sealed envelope.
- C. Refuse to respond to this RFQ because the list of employees salaries is a violation.
- D. Notify the ISD that they are in violation.
- E. Notify the Texas Board of Professional Engineers.

# Answer

- **A** – According to Board Rule, §137.53, it is a violation to provide “cost and/or pricing information or any other information from which pricing or cost can be derived”, prior to being selected. Sealing the envelope is not an exception to the rule.

# Better Options

- D - As a first alternative, notify the ISD that it is a violation for you to respond completely as requested. You should also inform them that their request is not consistent with the PSPA. It could just be a misunderstanding.
- B (response without salaries) - a viable option, but you should include why you have excluded the list, understanding that they may disqualify you.
- C (not responding) - means you won't be in the running. This also means the ISD would never be aware of the law.
- E – Contacting the TBPE is always an option, but may not be necessary. The Board may be able to help convince the ISD to issue an amendment prior to RFQ response opening.

# Outreach Publications



## Applicants

*How to Become a  
Licensed P.E.*

*Benefits of Being a  
Professional Engineer.*



# Exemptions from Licensure

- Private Entities (Manufacturing, Industry, etc)
- Privately owned Public Utilities

License not required for engineering work on company (or utility) property or products with no Seal required.



# Exemptions from Licensure

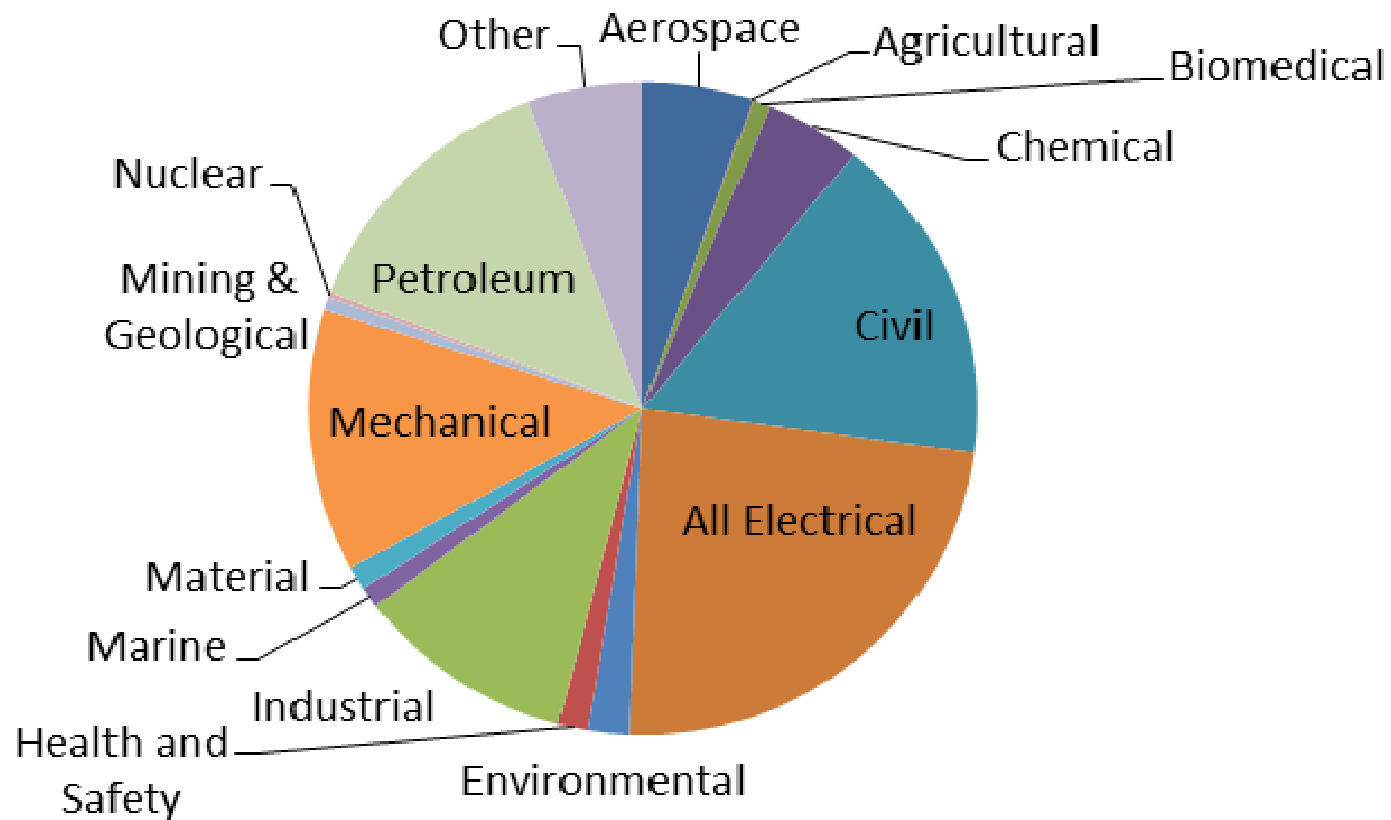
## Did you know???

- Only about 20% of US engineers are licensed.

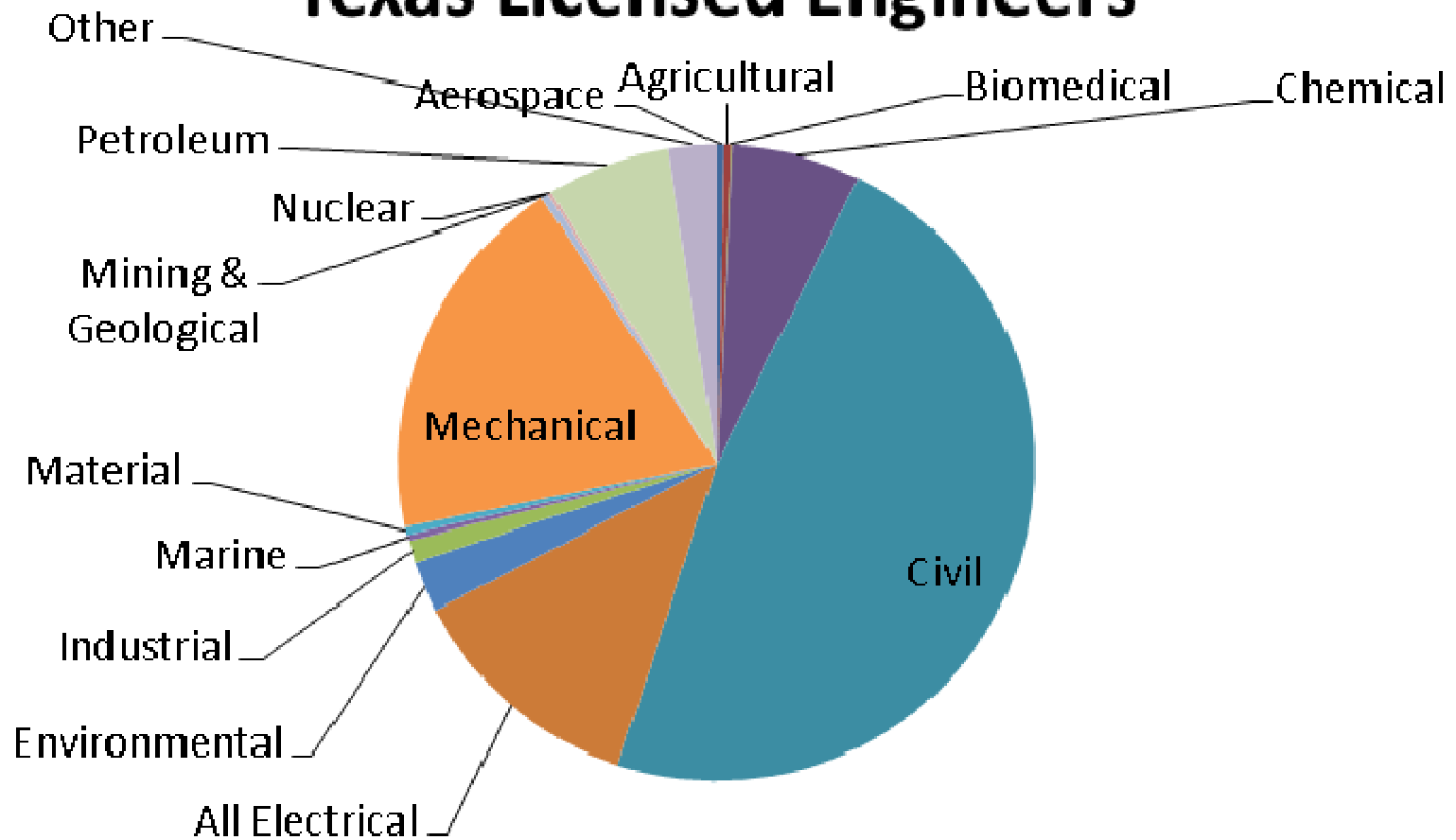
## Bureau of Labor Statistics (2013)

- 178,000 engineers in Texas (20% w/ Active licenses)
  - Civil – 23,500 in Texas (70% w/ Active licenses)
  - Petroleum - 20,000 in Texas (11% w/ Active licenses)
  - Industrial - 15,000 in Texas (2% w/ Active licenses)

## Texas Engineers - Total



## Texas Licensed Engineers



# Industry Exemption

## scenario

- You are a Texas EIT, but have not yet applied for a license.
- You work for a staffing firm that places employees in engineering and technical positions.
- You got an appointment working for a large Chemical manufacturer.
- Process engineers on staff are not licensed.
- Your work will be related to building design exclusively on company property.

# Industrial Exemption

## True or False?

A Texas PE license is not required for the work as described because your work is covered by the Industrial Exemption.

True. The exemption in the TEPA pertains to the manufacturing, oil and gas, etc. companies, their employees or others under their direct control. A license is not required.

# Industrial Exemption

## True or False?

The staffing firm you work for is required to have a firm registration.

False – Practicing under the industrial exemption, Firm registration is not required.

# Industrial Exemption

## True or False?

If you were a licensed PE working for a staffing firm placed in the same position, you are required to use your engineering seal on all of your work.

False – If the work is exempt under the Engineering Practice Act, sealing the work is not required even when performed by a licensed PE.

# Law and Rules

- Board is authorized by the Texas Engineering Practice Act
- Board interprets and implements the statute to create Rules
- Other statutes and rules also apply to engineering (PSPA, Windstorm, Architectural Barriers/ADA, etc.)
- Texas Professional Engineers are expected to know the Act, Board Rules, applicable state laws and local codes.



# Preventing Complaints

- CLEAR:
  - Communication (between all parties)
  - Contract (expectations and responsibilities)
  - Calculations and designs (be prepared to support)
- Keep your Documentation

*Most importantly – know the law, and contact us if you have a question!*

# Policy Advisory Opinions

- Provision Added to TEPA in 2003
- Allows Board to develop formal written interpretations of law and rules
  - Specific or hypothetical situations
  - Interpretations – ‘Gray Areas’
- Over 30 interpretations for a variety of subjects
  - Water Quality Planning, Power Poles, Use of PE Title, Fire Alarm / Sprinklers, PSPA – Contractors, Building Commissioning, etc.

# Policy Advisory Opinions

- **Information**

- All Policy Advisories at:

- <http://engineers.texas.gov/policy.htm>

- How to submit PAO Request / Forms at:

- [http://engineers.texas.gov/Policy\\_Advisory.htm](http://engineers.texas.gov/Policy_Advisory.htm)

# Legislative News and Rulemaking

# Legislation 84<sup>th</sup> Session (2015)

- Bills affecting engineering or the Engineering Practice Act were tracked on the TBPE website
  - Professional Fee repeal
  - Windstorm
  - PE Indemnification related to state contracts
  - Structural Engineering
  - SDSI changes

# Passed Legislation - 2015

- Professional Fee Repeal (House Bill 7)
  - Eliminates \$200 annual fee
  - Affects license renewals and new licenses issued
  - Effective September 1, 2015
  - Automatically applied to renewals

# 2013 Legislation Changes

## SB 204 – Agency Sunset Bill

- Enforcement
- Criminal History Record Checks
  - 50,000 Licensees and Applicants submitted prints
  - 4,300 Had some sort of incident of Texas or FBI record and were reviewed by staff
  - 6 Enforcement cases opened for licensees
  - 50 Applications required additional review or Board Action

# New Rules - Decoupling

Adopted February - Effective **May, 2016**

- Allows PE exam to be taken while experience is being obtained. Must be a Texas EIT.
- Increased flexibility for applicants
- Does not reduce licensing requirements.
- Requires system modifications for tracking
- EIT application to be online





# TBPE Initiatives

*Engineering for a better Texas*

# Engagement – Future Engineers Advisory Committee

- Outreach to young / new engineers
- Consists of EITs and new PEs
- Advising on:
  - Communications with young engineers
  - Application issues
  - Future initiatives with board

# Engagement – Professional and Technical Organizations

- ***Rule 137.63(a) – [Engineers] should attempt to enhance society’s awareness of engineers’ responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.***
- Training and Continuing Education
- Engineering Policy
- Latest Technical Information
- Engineering Networking / Mentoring / References

# Technical Organizations

- Involved in technical issues in engineering
- Organizations by branch of engineering
- Training
- Conferences
- Codes and Specs
- Research
- Local, regional, student branches

# Technical Organizations

- ASCE – American Society of Civil Engineers - <http://www.texasce.org/>
- IEEE – Institute of Electrical Engineers - <http://ieeer5.org/>
- ASME – American Society of Mechanical Engineers - <https://www.asme.org/>
- AIChE – American Institute of Chemical Engineers - <http://www.aiche.org/>
- SEAoT – Structural Engineers of Texas - <http://www.seaot.org/>
- *And many, many others...*

# Professional Organizations

## Texas Society of Professional Engineers (TSPE) – [www.tspe.org](http://www.tspe.org)

- All branches of engineering
- Represents the individual PE
- Focus on the profession as a whole
- Engineering Policy / Legislative Issues
- Example: \$200 fee removal
- State branch of NSPE

# Engagement - Webinars

- PE Ethics
  - March, June, September, December
  - Sign up online
- FE Exam / Why become a PE? (Students)
- How to Apply (EITs)

## Outreach – continuing excellence

Fiscal Year	Attendees	Presentations
2012	7,327	166
2013	11,559	177
2014	14,866	155
2015	19,751	150

- Quarterly Webinars
- Includes K-12 / E-Week



# Thank You

1917 S Interstate 35, Austin, TX 78741

Phone: 512-440-3054

[David.Howell@engineers.texas.gov](mailto:David.Howell@engineers.texas.gov)



<http://engineers.texas.gov/outreachsurvey>