

[The following is a statement issued to legislators from the Oregon State Board of Geologist Examiners opposing the geologist free speech bill.]

## **Oregon's 72<sup>nd</sup> Legislative Session (2003)**

The following very similar two bills will change the statute of the Board of Geologist Examiners.

HB 2893:           Sponsored by Representative Barnhart, District 11, Eugene  
SB 572:            Sponsored by Senator Corcoran, District 4, Cottage Grove

Both bills are sponsored on behalf of Mark Reed, University of Oregon Professor of Geology.

During 2002, the Oregon State Board of Geologist Examiners reviewed a complaint against Dr. Reed. The Board resolved the case and repealed the Administrative Rule on Public Testimony as part of that resolution. The above referenced bills have been created in the aftermath of that compliance case. The issue surrounding the statute change is more complicated than the "one case" that is being discussed. The Board needs more time to research the ramifications of these bills before any long-term change to statute is initiated.

The compliance case review was difficult, but it never revolved around Dr. Reed's testimony. The right to speak is granted in both the U.S. Constitution and the Oregon Constitution. The right to testify was quickly identified and accepted by the Board. However, Dr. Reed's reports and the work shown in them were initially evaluated as the practice of geology. This is the area in which the Board must have additional clarification. Information for evaluating "when the practice begins" and "first amendment rights cease to protect" is being researched, but neither the research or follow-up Board discussion is complete. The Board just rescinded the "public testimony" rule following the Rule Hearing on March 11, 2003.

To make statute changes now could have unintended effects for the Board when considering other types of compliance cases. The correct Board approach for "public testimony" compliance cases in the future could be insured with the adoption of Administrative Rules without changing the Statute.

Additionally ORS 672 has language in the engineering law that appears to prohibit testimony by non registered professionals.

Legislative testimony has not been heard from the concerned professionals involved in public hearings. The Board respectfully solicits your assistance in preventing these bills from moving forward.

Susanna Knight  
Administrator  
OSBGE