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Bill Analysis
Legislative Service Commission

H.B. 214

124th General Assembly
(As Introduced)

Reps. Willamowski, Olman, Wolpert, Goodman

BILL SUMMARY

- Redefines, in great specificity, the practice of landscape architecture.
- Clarifies the relationships and jurisdictions among landscape architects and engineers, surveyors, architects, nurserypersons, landscape nurserypersons, gardeners, landscape gardeners, landscape designers, golf course architects or designers, and construction contractors.
- Imposes certain restrictions on "construction contractors" who offer "design-build" services when such contractors also offer landscape architectural services.
- Prohibits engaging in the unregistered practice of landscape architecture.
- Eliminates the option for an applicant for registration as a landscape architect to substitute two years of practical experience for each year of formal education required and increases from two to three the number of years of general practical experience an applicant must offer.
- Eliminates: (1) "provisional licenses" for certain persons who have a long history of engaging in the practice of landscape architecture, and (2) temporary registration of out-of-state landscape architects to work on a specific site.
- Makes other changes relating to grounds for denial, suspension, or revocation of a license, and the authority of the Board of Landscape Architect Examiners to seek injunctive relief to restrain violations of the Landscape Architect Law.

CONTENT AND OPERATION

"Landscape architecture" and "the practice of landscape architecture" redefined

(sec. 4703.30)

Under existing law, "landscape architecture" or "the practice of landscape architecture" includes:

- (1) the preparation of plans, construction drawings, and specifications;
- (2) the supervision of the performance of projects involving the arranging of land and the elements thereon for public and private use and enjoyment including the alignment of roadways and location of buildings, service areas, parking areas, walkways, steps, ramps, pools, and other structures, and the grading of the land, surface and subsoil, drainage, erosion control, planting, reforestation and the preservation of the natural landscape, in accordance with the accepted professional standards of public health, welfare, and safety.

The practice includes the location and arrangement of tangible objects and features incidental and necessary to the above-stated activities but not the design of structures or facilities with separate and self contained purposes for habitation or industry or the design of public works projects that are exclusive to the practice of engineering or architecture.

The bill retains the final sentence quoted above, but otherwise modifies the definition. Under the bill, "landscape architecture" or "the practice of landscape architecture" includes:

- the preparation of master, site, and comprehensive development plans, feasibility and site selection studies, and construction documents;
- construction observation;
- the supervision of the execution of projects involving the location and arrangement of land and the elements thereon, including water, buildings,

roadways and parkways, bicycle and pedestrian circulation systems, bicycle paths, sidewalks, parking, planting, irrigation systems, and other ancillary elements, for public and private use and enjoyment; and

- the planning, location, and arrangement of land development, grading, drainage, storm water management and appurtenant systems, road alignment, erosion and sediment control, natural systems, reforestation, land and water preservation, conservation, restoration, and reclamation.

As under existing law, these actions must be performed in accordance with the accepted professional standards of public health, welfare, and safety.

The bill specifically states that the practice of landscape architecture does not include the practice of surveying as defined in the Professional Engineers and Surveyors Law.

Prohibitions

(sec. 4703.32(A))

Existing law prohibits use of the title "landscape architect" unless the person is registered under the Landscape Architect Law. To this the bill adds a specific prohibition against engaging in the unregistered practice of landscape architecture (see preceding definitions section).

Related professions

(sec. 4703.32(B), (C), and (D))

Existing law specifies that the Landscape Architect Law does not exclude a registered professional engineer or registered architect from the practice of landscape architecture that is incidental to the practice of engineering or architecture. To this, the bill adds that the Landscape Architect Law does not exclude a landscape architect from the practice of architecture that is incidental to the practice of landscape architecture. The bill also removes the provision in current law that permits a registered professional engineer to practice landscape architecture that is incidental to the practice of engineering.

Existing law stipulates that the Landscape Architect Law does not affect the right of a nurseryperson (changed by bill from "nurseryman") to grow or market nursery stock or use the titles "nurseryperson," "landscape nurseryperson," or "landscape contractor" as long as the title "landscape architect" is not used. The bill designates the following additional titles that may be used, subject to the same condition as the titles permitted under existing law: "gardener," "landscape gardener," "landscape designer," "general contractor," "golf course architect," or

"golf course designer." Also, the bill adds a prohibition against an individual using any of the designated titles and engaging in the practice of landscape architecture.

The bill also adds a disclaimer that the Landscape Architect Law does not prevent:

(1) A vendor of goods, services, or materials including nurserypersons, landscape nurserypersons, gardeners, landscape gardeners, landscape designers, general or landscape contractors, and golf course architects and golf course designers, from providing drawings or graphic diagrams necessary for the proper layout of the vendor's goods or materials or arranging for the installation of the goods or materials;

(2) A landscape designer from engaging in, for a fee, the design of spaces utilizing plant materials and ancillary paving and building materials or arranging for the installation of the materials.

The bill also indicates that it is not to be construed in any manner, to prohibit a person from designing or preparing drawings or specifications for any property owned by that person.

Restrictions on construction contractors

(sec. 4703.332)

The bill allows a person performing labor or providing services under a construction contract (see definition below) to provide landscape architectural services in connection with that person's other labor or services under the construction contract only under the following conditions:

(1) The person employs a registered landscape architect or enters into a contract with a firm, partnership, association, limited liability company, or corporation with a valid certificate of authorization granted under the Landscape Architect Law to provide landscape architectural services.

(2) The person intending to perform the actual construction of an improvement to real property as part of a design-build contract offers the landscape architectural services.

(3) The contractor, the landscape architect or the firm, partnership, association, limited liability company, or corporation meets the requirements for professional liability insurance imposed by the Public Improvements Professional Design Services Law when design-build services are provided to a public authority as defined under that law.

The bill also prohibits a person who does not possess a certificate of authorization from offering landscape architectural services or engaging in the practice of landscape architecture pursuant to any construction contract whose terms are to be performed by another person or represent to the public that the person engages in the practice of landscape architecture or provides landscape architectural services without a valid certificate of authorization.

The bill defines:

(1) "Construction contract" to mean any oral or written agreement that involves any activity in connection with an alteration, repair, replacement, renovation, or installation project that is related to land or water resources.

(2) "Design-build" to mean a project delivery system for improvements to real property by which a person is solely responsible contractually as a contractor, to an owner for both the design and construction of the improvement, which design and construction may include a performance-based specification established by the owner rather than a specific design as an improvement goal.

Minimum formal education or practical experience requirements for registration as a landscape architect

(sec. 4703.34)

As one of the requirements for registration of a person as a landscape architect, the Landscape Architect Law requires that a person possess a professional degree from a landscape architect program recognized by the Board of Landscape Architect Examiners. The bill substitutes, instead, accreditation of programs by the National Landscape Architect Accrediting Board.

The bill also eliminates the option for an applicant to substitute two years or equivalent practical experience for each year of professional education. The bill increases from two to three the minimum number of years of practical experience an applicant must have in the office of or under the direct supervision of a registered landscape architect. It also adds a new requirement that an applicant complete the requirements for training under an internship program established or adopted by the Board of Landscape Architect Examiners. Such program must include, but is not limited to, training in design and construction documents, construction administration and office management, or equivalent experience acceptable to the Board.

Provisional license

(secs. 4703.33, 4703.341, and 4703.36)

The bill repeals the authority of the Board of Landscape Architect Examiners to grant a three-year provisional license to certain persons who have been regularly engaged in the practice of landscape architecture and who eventually sit for the examination for a regular registration.

Permits for out-of-state landscape architects

(secs. 4703.32, 4703.39, 4703.41, 4703.42, and 4703.45)

The bill repeals the authority given to the Board of Landscape Architect Examiners to issue, without examination, a permit to assume or use the title of landscape architect for a specific designated and described site.

Existing law, not affected by the bill, allows the Board to grant regular registration to out-of-state landscape architects coming from states with qualifications and requirements "substantially equal" to those imposed by Ohio at the time the person first applies.

Grounds for denying a person registration as a landscape architect

(sec. 4703.41)

Under existing law, the Board of Landscape Architect Examiners may deny an applicant registration or suspend, revoke, or refuse to renew an existing registration for a variety of infractions identified in the law. To this list, the bill adds violation of any rule governing the standards for education, experience, services, conduct, and practice or any rule adopted by the Board.

Injunctive relief for violations of Landscape Architect Law

(sec. 4703.46(B))

The bill authorizes the Board of Architect Examiners to apply to any court of competent jurisdiction for an injunction or restraining order against any person, firm, corporation, partnership, limited liability company, or other group or combination of persons to restrain such persons from violation of the Landscape Architect Law or any of the rules adopted by the Board governing the standards of service, conduct, and practice to be followed in the practice of landscape architecture.

Technical changes

(secs. 4703.31(F), 4703.44, 4703.46, and 4703.49)

The bill makes technical changes that do not appear to have any practical substantive effect.

HISTORY

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Introduced	04-12-01	p. 303

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