



Sub. H.B. 214*

124th General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

Reps. Willamowski, Olman, Wolpert, Goodman, Collier, Lendrum, Raga, Flowers, Schmidt, Hagan, G. Smith, Salerno

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 persons who perform services pursuant to a construction contract when those persons 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.
- Permits an applicant for registration to complete an internship program established by the Board of Landscape Architect Examiners as a substitute for the completion of the practical experience requirement.
- Eliminates the option, for out-of-state landscape architects, to obtain a temporary registration to work on a specific site.

** This analysis was prepared before the report of the Senate Insurance, Commerce, and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Makes other changes relating to grounds for denial, suspension, or revocation of a license and certificate of authorization, and the authority of the Board of Landscape Architect Examiners to seek injunctive relief to restrain persons from violating the Landscape Architect Law.
- Substitutes a person from a "licensed design profession" for the member of the Board who is from an "allied profession."

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.

(3) 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 streets and highways, utilities, storm and sanitary sewers, and sewage treatment facilities that are exclusive to the practice of engineering or architecture.

The bill substantially revises this definition. Under the bill, "landscape architecture" or "the practice of landscape architecture" includes:

(1) The preparation of master, site, and comprehensive development plans, and of feasibility and site selection studies, and the supervision of the execution of projects, in accordance with the accepted professional standards of public health, welfare, and safety, where the dominant purpose of the service involves:

- The preservation, conservation, enhancement, or determination of proper land and water uses, natural land features, ground cover and plantings, naturalistic and aesthetic values, natural systems, reforestation, restoration, and reclamation;
- The determination of settings, grounds, and approaches for buildings and structures or other improvements;
- The determination of environmental problems of land relating to erosion and sediment control, flooding, blight and other hazards;
- The shaping and contouring of land and water forms;
- The determination of grades;
- The determination of surface and ground water drainage and providing for drainage systems where such systems do not require structural design of system components or a hydraulic analysis of the receiving storm water conveyance system;
- The development of roadways and parkways, equestrian, bicycle and pedestrian circulation systems, sidewalks, parking, planting, pools, irrigation systems, and other ancillary elements, for public and private use and enjoyment.

(2) The preparation of construction documents, provided that these are limited to and are necessary for projects within the scope of the practice of landscape architecture as defined in (1) above;

(3) The following services as they relate to the practice of landscape architecture:

- Construction observation;
- Project coordination and review of technical submissions, plans, and construction documents;
- Collaboration with architects and professional engineers in the design of streets, highways, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which such facilities are to be placed.

(4) The same service described in (3) under the existing definition, except that with respect to the types of public works exempted, the bill specifies merely

"streets" instead of "public streets," and also "*water and* sewage treatment facilities" instead of merely "sewage treatment facilities."

The bill further requires that a landscape architect undertake to perform professional services only when the landscape architect is qualified by education, training, and experience in the specific technical areas involved. The bill specifies, however, that this provision cannot be construed to prohibit a landscape architect from engaging individuals performing services outside the scope of the landscape architect's qualifications as consultants.

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 or holds a permit under the Landscape Architect Law. The bill adds a specific prohibition against engaging in the unregistered practice of landscape architecture (see preceding definitions section). It also eliminates the option to use this title when holding a permit because the bill eliminates the option to obtain permits (see "**Permits for out-of-state landscape architects**" below).

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. The bill removes the provision that permits a registered professional engineer to practice landscape architecture that is incidental to the practice of engineering. The bill also specifies 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.

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," "land developer," "golf course architect," or "golf course designer."

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, "land developers," 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 offer or provide landscape architectural services in connection with that person's other labor or services 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 registered landscape architect, or the firm, partnership, association, limited liability company, or corporation holding a valid certificate of authorization 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, that the program must be accredited by the National Landscape Architect Accrediting Board.

The bill also eliminates the option for an applicant to substitute two years or equivalent of 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. As an alternative to the completion of the practical experience requirement, the bill adds a new option that permits an applicant to complete the requirements for training under an internship program established pursuant to rules 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.

In addition to the above stated requirements for registration, current law also requires an applicant to pass an examination to determine the applicant's

fitness for registration. The bill requires the Board to permit an applicant who is in the process of satisfying the experience or internship requirements described above to take the examination. The Board, however, cannot register the applicant until all requirements are satisfied.

Provisional license

(secs. 4703.33, 4703.341, and 4703.36)

The bill repeals an obsolete provision of law that authorized the Board of Landscape Architect Examiners to grant a three-year provisional license to persons who applied for that license by April 4, 1986, and who met specified age, conduct, education, experience, and examination requirements.

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 in which the qualifications, at the time of licensure, were "substantially equal" to those imposed by Ohio.

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 may suspend, revoke, or refuse to renew an existing registration or certificate of authorization for a variety of infractions identified in the law. To this list, the bill adds that the Board may utilize these forms of discipline when a person violates 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 to enjoin or restrain a person, firm, corporation, partnership, limited liability company, or other group

or combination of persons from violating 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.

Composition of the State Board of Landscape Architect Examiners

(sec. 4703.31(A))

Currently, the State Board of Landscape Architect Examiners is comprised of five members, one of whom must be from an "allied profession." The bill substitutes a person from a "licensed design profession" for the member who is from an "allied profession."

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

ACTION	DATE	JOURNAL ENTRY
Introduced	04-12-01	p. 303
Reported, H. Commerce & Labor	01-30-02	p. 1350
Passed House (94-1)	02-13-02	p. 1388
Reported, S. Insurance, Commerce, and Labor	---	---

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