



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### **Am. S.B. 68**

130th General Assembly  
(As Reported by H. State and Local Government)

**Sens.** Schaffer, Bacon, Burke, Coley, Eklund, Faber, Hite, Hughes, Oelslager, Patton

**Reps.** Hackett, Brown

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## **BILL SUMMARY**

### **Architects Board**

- Eliminates the process for reinstatement of certificates issued by the Architects Board.
- Allows the Architects Board to deny renewal of, revoke, or suspend certificates without an adjudication hearing when such a hearing is not timely requested.

### **Ohio Landscape Architects Board**

- Changes the name of the State Board of Landscape Architect Examiners to the Ohio Landscape Architects Board.
- States that any person registered under the Landscape Architects Law can be designated or known as a professional landscape architect or registered landscape architect, along with the existing title of landscape architect.
- Requires a person to be registered under the Landscape Architects Law before using the new titles of professional landscape architect or registered landscape architect on signs or certain materials, or before assuming a title or using certain statements to indicate or imply that the person is a landscape architect, professional landscape architect, or registered landscape architect.
- Adds use of the titles of professional landscape architect and registered landscape architect to the specification that the Landscape Architects Law does not affect the right of an individual to engage in the occupation of growing or marketing nursery stock.

- Allows an identifying stamp to be obtained by a registered professional landscape architect or landscape architect.
- Prohibits a firm, partnership, association, limited liability company, or corporation, except for a nonprofit membership corporation, from using a name including "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words, unless all the required information is filed.
- Permits the Ohio Landscape Architects Board to authorize any person to use the title "emeritus landscape architect."
- Permits the Board's designee, in addition to the Board, to hold examinations and register qualified applicants.
- Allows the Board to require an applicant licensed in another state or country to hold a current council record.
- Modifies the certificate issuance and registration procedures to practice landscape architecture.
- Eliminates the authority of the Board to establish a fee for taking or retaking the examination for registration as a landscape architect.
- Removes the limitation that a registration suspension may not exceed one year.
- Makes changes to the authority to fine violators of the Landscape Architects Law.
- Modifies the list of items for which the Board may discipline an applicant, registrant, certificate holder, or other person.
- Repeals a provision related to notice of a hearing and provides that administrative procedures of the Board must be governed by the Administrative Procedure Act.
- Provides, if a person fails to request a hearing within 30 days after the date the person is notified, the Board, can take the action against a person without holding an adjudication hearing.
- Repeals a provision related to reinstatement of a registration or certificate of authorization that requires the Board to not renew or reissue such a license without an examination, or renew or reissue such a certificate without reapplication to the Board.



- Allows the Board's designee to present violations of the Landscape Architects Law to the county prosecuting attorney.
- Specifies and makes modifications to prohibitions under the Landscape Architects Law.

## **Expenditures**

- Removes the requirement that all the expenditures of the Architects Board and Ohio Landscape Architects Board must be paid by vouchers approved by the secretary or executive secretary of the Architects Board, or both, as authorized by the Board.

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## **CONTENT AND OPERATION**

### **Architects Board**

#### **Revocation or suspension of certificate**

Generally, the Architects Board may, by three concurring votes, deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, or any certificate of authorization to provide architectural services, that is issued or renewed under ongoing law, if proof satisfactory to the Board is presented in certain cases.



The bill eliminates the authority for, at any time after the expiration of six months from the date a certificate is revoked or suspended, an individual, a firm, a partnership, an association, or a corporation to apply for reinstatement of the certificate. The bill further removes the authority of the Board to restore the certificate, at its discretion, upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and all costs incurred by the Board as a result of the case at issue have been paid.<sup>1</sup>

### **Adjudication hearing**

Under the bill, if a person fails to request a hearing within 30 days after the date the Architects Board, under the Administrative Procedure Act, notifies the person of the Board's intent to act against the person by denying renewal of, revoking, or suspending any certificate of qualification to practice architecture, or any certificate of authorization to provide architectural services, the Board, by a majority vote of a quorum of the Board members, may take the action against the person without holding an adjudication hearing.<sup>2</sup>

### **Name change fixes**

Sub. S.B. 225 of the 127th General Assembly changed the name of the State Board of Examiners of Architects to the Architects Board. The bill modifies current law accordingly to reflect that name change.<sup>3</sup>

## **Ohio Landscape Architects Board**

### **Name change**

The bill changes the name of the State Board of Landscape Architect Examiners to the Ohio Landscape Architects Board.<sup>4</sup>

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<sup>1</sup> R.C. 4703.15(A).

<sup>2</sup> R.C. 4703.15(C).

<sup>3</sup> R.C. 119.06, 4703.071, and 4703.31.

<sup>4</sup> R.C. 119.06, 4703.30, 4703.31, 4703.32, 4703.33, 4703.331, 4703.34, 4703.35, 4703.36, 4703.37, 4703.38, 4703.41, 4703.44, 4703.46, 4703.49, 4703.50, 4703.52, and 4703.53.

## **Landscape architect, professional landscape architect, and registered landscape architect**

The bill adds the titles of "professional landscape architect" and "registered landscape architect" to the titles that may be used by a person who is registered as provided in the Landscape Architects Law. Current law recognizes only "landscape architect" as a title. The bill states that any person registered under the Landscape Architects Law may be designated or known as a landscape architect, professional landscape architect, or registered landscape architect.<sup>5</sup>

The bill prohibits a person from using either of the new titles or from using any title, sign, card, or device indicating, or tending to indicate, or represent in any manner that the person is a professional landscape architect, or registered landscape architect, unless the person is registered under the Landscape Architects Law. Also, the bill prohibits a person from assuming a title or using any abbreviation, words, letters, or figures to indicate or imply that the person is a landscape architect, professional landscape architect, or registered landscape architect, unless the person is registered under the Landscape Architects Law.<sup>6</sup>

The bill adds use of the titles of professional landscape architect and registered landscape architect to the current law specification that the Landscape Architects Law does not affect the right of an individual to engage in the occupation of growing or marketing nursery stock or to use the title "nurseryperson," "landscape nurseryperson," "gardener," "landscape gardener," "landscape designer," "general contractor," "landscape contractor," "land developer," "golf course architect," or "golf course designer," if the individual does not engage in the practice of landscape architecture. But no individual may practice landscape architecture or use the title "landscape architect," "professional landscape architect," or "registered landscape architect," unless the person has complied with the Landscape Architects Law.<sup>7</sup>

The bill further provides that a professional landscape architect or landscape architect, under ongoing law's authority for each landscape architect, upon registration by the Board, may obtain a stamp of the design authorized by the Board, bearing the name of the registrant, date of registration, number of certificate, and the legend

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<sup>5</sup> R.C. 4703.30 and 4703.32.

<sup>6</sup> R.C. 4703.32(A).

<sup>7</sup> R.C. 4703.32(D).



"registered landscape architect," "professional landscape architect," or "landscape architect."<sup>8</sup>

Similarly, no firm, partnership, association, limited liability company, or corporation is permitted to provide landscape architectural services, hold itself out to the public as providing landscape architectural services, or use a name including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words, unless the firm, partnership, association, limited liability company, or corporation files with the Board all information required to be filed under the Landscape Architects Law and otherwise complies with all requirements of that Law. However, a nonprofit membership corporation, which is not defined, may use a name, including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words, without complying with this provision. Current law contains the same prohibition and grants the same permission, but only as to "landscape architect."<sup>9</sup>

### **Emeritus landscape architect**

The bill permits the Ohio Landscape Architects Board to authorize any person to use the title "emeritus landscape architect." An emeritus landscape architect is an individual who has been registered to practice landscape architecture in Ohio for at least ten years, is fully retired from the practice of landscape architecture, and is at least 65 years old. An emeritus landscape architect is exempt from the continuing education and fee requirements of the Landscape Architects Law.<sup>10</sup>

### **Examinations**

The bill authorizes the Board's designee to hold examinations not less than once annually and register as a landscape architect each applicant who demonstrates to the satisfaction of the Board that the applicant has met all the requirements to become registered. Current law requires only the Board to hold the examinations and register qualified applicants.<sup>11</sup>

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<sup>8</sup> R.C. 4703.32(F).

<sup>9</sup> R.C. 4703.331(B).

<sup>10</sup> R.C. 4703.32(B).

<sup>11</sup> R.C. 4703.33(B).



## **Reciprocity**

The bill includes in the Ohio Landscape Architects Board's power to register landscape architects registered or licensed in another state or country, that the Board may require such an applicant to hold a current council record issued by the Council of Landscape Architectural Registration Boards. Continuing law provides that the Board may require the applicant to hold a current certificate of good standing issued by the Council.<sup>12</sup>

## **Certificate of qualification**

Under the bill, each certificate of qualification issued and registered on or after the bill's effective date by the Board must authorize the holder to practice landscape architecture as a landscape architect in Ohio until the last day of December of each even-numbered calendar year, unless revoked or suspended under the Landscape Architects Law. Current law provides that each certificate of qualification must authorize the holder to practice landscape architecture as a landscape architect in Ohio until the last day of October of each odd-numbered calendar year, unless revoked or suspended under the Landscape Architects Law.

The bill provides a transition period for this revision to the certificate issuance and registration procedure. If an individual holds a certificate of qualification to practice landscape architecture as a landscape architect on the bill's effective date, or if an individual's application for registration as a landscape architect is pending on the bill's effective date and a certificate of qualification is subsequently issued to the individual, the certificate of qualification does not expire until December 31, 2016, unless revoked or suspended for cause as provided in the Landscape Architects Law or suspended because of a default of a child support order.<sup>13</sup>

## **Examination fees**

The bill eliminates the Board's authority to establish a fee for taking or retaking the examination for registration as a landscape architect conducted under the authority of the Board at an amount adequate to cover the expenses of procuring and grading the examination plus a fee for retaking all or parts of the required examination.<sup>14</sup>

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<sup>12</sup> R.C. 4703.35.

<sup>13</sup> R.C. 4703.36(B); Section 3.

<sup>14</sup> R.C. 4703.37(C)(1).



## **Disciplinary actions; hearings**

### **Suspension or fines**

In relation to the Board's authority to suspend a landscape architect's registration, the bill removes the limitation that such a suspension may be for a period not exceeding one year. Current law limits a suspension to not exceeding a one-year period.

The bill adds to the Board's powers the authority to fine a person when the registrant, holder of a certificate of authorization, or other person does any of the actions for which the Board currently may otherwise discipline applicants, registrants, or certificate holders. This fine appears to be a civil fine. The bill removes the current law authority that states that whoever violates the Landscape Architects Law must be fined not less than \$50 nor more than \$200 for the first offense; for each subsequent offense such person must be fined not less than \$200 nor more than \$500. The bill instead limits these fine restrictions to violations of the provision related to the prohibitions against practicing landscape architecture or using the titles related to that practice without complying with the Landscape Architects Law.<sup>15</sup>

### **Other actions**

The bill adds to the list of actions for which the Board may discipline an applicant, registrant, certificate holder, or other person (in regard to the fining authority) when the applicant, registrant, certificate holder, or other person has obtained or attempted to obtain registration or a certificate of authorization by false oath or affirmation or when the applicant, registrant, certificate holder, or other person fails to comply with any disciplinary sanction issued by the Board.

Continuing law also permits a disciplinary action by the Board if a registrant, applicant, or certificate holder does any of the following:

(1) Has obtained or attempted to obtain registration or a certificate of authorization by fraud or material misrepresentation;

(2) Is impersonating or has attempted to impersonate a landscape architect or a former landscape architect;

(3) Is found by the Board to have been guilty of fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services;

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<sup>15</sup> R.C. 4703.41 and 4703.99(B).



(4) Has affixed the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or certificate holder's immediate and responsible direction, or has permitted the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade the Landscape Architects Law;

(5) Fails the required examination;

(6) Is found by the Board to have violated any rule governing the standards for education, experience, services, conduct, and practice or any rule adopted by the Board under the Landscape Architects Law.<sup>16</sup>

### **Administrative hearings**

The bill repeals a provision that states that the Board must not refuse to renew a registration or certificate of authorization, or suspend or revoke a registration or certificate of authorization, without at least 20 days' notice to the applicant, registered landscape architect, or other interested party, who is entitled to a hearing by the Board under the Administrative Procedure Act. The repealed provision requires that at least 10 days before the hearing date, the Board must notify the applicant, registered landscape architect, or other interested party of the nature of the matters to be presented at the hearing. Within 30 days after the hearing, the Board must give notice of its final decision to the applicant, registered landscape architect, or other interested party.<sup>17</sup>

Under continuing law, the administrative procedures of the Board are governed by the Administrative Procedure Act. Under the bill, the Board's authorized representatives can administer oaths, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda, or other information necessary to the carrying out of the Landscape Architects Law. Under current law, unless otherwise provided in the repealed provision discussed in the preceding paragraph, the administrative procedures of the Board are governed by the Administrative Procedure Act, and the President of the Board and the President's authorized representatives can administer oaths, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records,

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<sup>16</sup> R.C. 4703.41 and 4703.99(B).

<sup>17</sup> R.C. 4703.42 (repealed).

memoranda, or other information necessary to the carrying out of the Landscape Architects Law.<sup>18</sup>

The bill further provides that if a person fails to request a hearing within 30 days after the date the Board, in accordance with the Administrative Procedure Act, notifies the person of the Board's intent to take a disciplinary action against the person, the Board, by a majority vote of a quorum of the Board members, can take the action against a person without holding an adjudication hearing.<sup>19</sup>

### **Renewing revoked registration**

The bill repeals a law that provides, after revocation of a registration or certificate of authorization for gross negligence in the practice of landscape architecture or in providing fraudulent, deceitful, or grossly negligent landscape architectural services, the Board must not renew or reissue such license without an examination, or renew or reissue such certificate without reapplication to the Board. Under the repealed provision, the individual whose registration is revoked for such cause or the corporation, firm, partnership, or association whose certificate of authorization is revoked can file a new application for an examination or for a certificate of authorization with the Board, and upon showing that all loss caused by the gross negligence for which the license or certificate was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with, the Board may at its discretion issue a new license or certificate.<sup>20</sup>

### **Criminal penalties**

Continuing law requires that the prosecuting attorney in each of the counties must prosecute by court action all violations of the Landscape Architects Law occurring in the prosecuting attorney's jurisdiction as may be presented for prosecution by the Board. The bill adds that the Board's designee may present violations to the county prosecuting attorney.<sup>21</sup>

The bill prohibits a person from doing any of the following:

(1) Obtaining or attempting to obtain registration or a certificate of authorization by fraud or material misrepresentation or by false oath or affirmation;

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<sup>18</sup> R.C. 4703.44.

<sup>19</sup> R.C. 4703.44.

<sup>20</sup> R.C. 4703.43 (repealed).

<sup>21</sup> R.C. 4703.49(B).



(2) Impersonating or attempting to impersonate a landscape architect or former landscape architect;

(3) Recklessly engaging in fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services.

The bill also prohibits a registrant or certificate holder from (1) affixing the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or certificate holder's immediate and responsible direction, and (2) permitting the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade the Landscape Architects Law.<sup>22</sup>

Under the bill, whoever violates the above provisions is guilty of a third degree misdemeanor; for each subsequent offense such person is guilty of a first degree misdemeanor.<sup>23</sup>

The bill repeals a provision that prohibits a person from doing either of the following: (1) obtaining or attempting to obtain registration as a landscape architect or a certificate of authorization by fraud or material misrepresentation or (2) willfully making a false oath or affirmation.<sup>24</sup> Similar provisions are recodified in the bill as provided above; however, the making of a false oath or affirmation no longer needs to be willful under the bill.

## **Expenditures of Architects Board and Ohio Landscape Architects Board**

The bill removes the requirement that all expenditures of the Architects Board and Ohio Landscape Architects Board must be paid by vouchers approved by the secretary or executive secretary of the Architects Board, or both, as authorized by the Board.<sup>25</sup>

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<sup>22</sup> R.C. 4703.411.

<sup>23</sup> R.C. 4703.99(A).

<sup>24</sup> R.C. 4703.45 (repealed).

<sup>25</sup> R.C. 4703.50.



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## HISTORY

ACTION	DATE
Introduced	03-12-13
Reported, S. State Gov't Oversight & Reform	06-12-13
Passed Senate (31-0)	06-20-13
Reported, H. State and Local Government	11-20-13

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