

HOUSE BILL REPORT

ESSB 5746

As Reported by House Committee On:

Commerce & Labor

Appropriations

Title: An act relating to the practice of landscape architecture.

Brief Description: Regarding the practice of landscape architecture.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Jacobsen, Kohl-Welles, Murray, Keiser and Poulsen).

Brief History:

Committee Activity:

Commerce & Labor: 2/26/08, 2/28/08 [DPA];

Appropriations: 3/3/08 [DPA(CL)].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Establishes licensing requirements for the practice of landscape architecture in place of the registration requirements for using the title of landscape architect.
- Provides for the State Board of Licensure for Landscape Architects to administer the provisions.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Staff: Alison Hellberg (786-7152).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Legislation enacted in 1969 requires a person who uses or advertises the title of landscape architect, landscape architecture, or landscape architectural to register with Board of Registration for Landscape Architects. The membership of the Board of Registration for Landscape Architects consists of four landscape architects and one member of the public, all appointed by the Governor.

A "landscape architect" is defined as a person who performs professional services such as consultations, investigations, reconnaissance, research, planning, design, or teaching supervision in connection with the development of land areas where the dominant purpose of the services is the preservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvements, or natural drainage and erosion control.

Prior to applying for registration, an applicant must have completed a course of study in landscape architecture and graduated from an approved college or school, or the equivalent, as determined by the Board of Registration for Landscape Architects. The applicant must also have a minimum of seven years of combined training and experience and pass a written examination. The Director of the Department of Licensing (Director) may register an applicant who is a registered landscape architect in another state or country whose requirements for registration are substantially equivalent.

The Department of Licensing (Department) regulates many businesses and professions under specific licensing laws. Each business and profession is under either the disciplinary authority of the Director, or a board or commission charged with regulating that particular profession. The Uniform Regulation of Business and Professions Act (URBPA) provides consolidated disciplinary procedures for these licensed businesses and professions.

In addition to the conduct, acts, or conditions under the URBPA, the Director may impose discipline when the holder of a certificate of registration:

- impersonates a practitioner; or
- permits his or her seal to be affixed to any plans, specifications, or drawings that were not prepared by him or her or by employees subject to his or her direction and control.

Summary of Amended Bill:

The practice of landscape architecture is restricted to those who are licensed to practice in Washington by the State Board of Licensure for Landscape Architects (Board). The practice of landscape architecture is expanded to include the preparation of construction documents and construction administration. Use of the phrases "landscape architect," "landscape architecture," or "landscape architectural" are not affected if a person does not practice landscape architecture.

Requirements for Licensure

The Director shall license all qualified applicants who have been certified by the Board. In order to qualify, an applicant must pass the required examination, offer satisfactory proof of

completing required education and work experience, be of good moral character, and be at least 18 years old. The required education and work experience consist of either:

- a professional landscape architectural degree from an institution of higher education accredited by the National Landscape Architecture Accreditation Board, or equivalent as decided by the Board, and three years of practical landscape architectural work experience under the supervision of a licensed landscape architect;
- a baccalaureate degree from a college or university and have eight years of practical landscape architectural work experience under the supervision of a licensed landscape architect; or
- a high school diploma and 15 years of practical landscape architectural work experience, at least eight of which under the supervision of a licensed landscape architect.

The Director may license an applicant who is a licensed landscape architect from another state or country if the individual's qualifications and experience are determined by the Board to be equivalent to Washington's requirements. A landscape architect licensed or registered in another jurisdiction may offer to practice in Washington if:

- it is clearly and prominently stated in any offer that the landscape architect is not licensed to practice landscape architecture in Washington; and
- before practicing landscape architecture or signing a contract to provide these services, the landscape architect obtains a certificate of licensure.

A licensed landscape architect must demonstrate continuing professional education activities, as prescribed by the Board. A license of a person who is not in compliance with a child support order will immediately be suspended. The license may be reissued if the person continues to meet all other licensing requirements and the Board receives a receipt from the Department of Social and Health Services stating that the licensee is in compliance with the child support order.

Licensure Board for Landscape Architects

The Board of Registration for Landscape Architects is replaced with the Board. The membership of the Board consists of four licensed landscape architects and one member of the public. The landscape architect members must be residents of Washington and have at least eight years of experience in the field of landscape architecture. Members are appointed to six-year terms by the Governor.

The Board certifies the education and work experience of applicants and determines the content, scope, and grading process of the required examination. The Board may adopt an appropriate national examination and grading procedure.

The Board may impose disciplinary procedures under the URBPA for the following actions:

- offering to pay, paying, or accepting any substantial gift, bribe, or other consideration to influence the award of professional work;
- being willfully untruthful or deceptive in any professional report, statement, or testimony;

- having a financial interest in a contract to supply labor or materials for a project in which a person is employed as a landscape architect, unless the client consents after a full disclosure;
- allowing an interest in any business to affect a decision regarding landscape architectural work;
- signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed by the landscape architect; or
- willfully evading any law, ordinance, code, or regulation governing site or landscape construction.

Exemptions from Licensure

These licensing requirements do not affect or prevent:

- the practice of architecture, land surveying, engineering, geology, forestry, or any legally recognized profession by persons not licensed as landscape architects;
- drafters, clerks, project managers, superintendents, and other employees of landscape architects from acting under the supervision of their employers;
- the construction, alteration, or supervision of sites by contractors or superintendents employed by contractors or the preparation of shop drawings;
- contractors from engaging persons who are not landscape architects to observe and supervise site construction of a project;
- qualified professional biologists from providing services for natural site areas that also fall within the definition of landscape architecture;
- individuals from making plans, drawings, or specifications for any property owned by them and for their personal use;
- the design of irrigation systems;
- landscape design on residential properties; and
- preparation of conceptual landscape drawings that are not for use in bidding, permitting, or construction.

Amended Bill Compared to Engrossed Substitute Bill:

The Director of the Department's authority to adopt fees is removed, as well as other references to fees. An exemption for landscape architecture licensing is added for the preparation of conceptual landscape drawings that are not used in bidding, permitting, or construction. This replaces an exemption for landscape design and installation of nonresidential projects that are implemented in accordance and compliance with the local regulations of local jurisdictions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2009.

Staff Summary of Public Testimony:

(In support) This bill allows for public safety and maintains local and family-owned businesses. The way the bill is written allows landscape designers to continue working. Not everyone can afford the services of a landscape architect. Landscape designers offer services for residential properties and small businesses who cannot afford to hire a landscape architect. A responsible landscape designer always knows when it is necessary to call in another professional.

This bill protects landscape professionals by allowing them to continue working. The original bill ignored and dismissed other professions and allowed only landscape architects to do all landscaping work. It required landscape architects on all nonresidential properties, even small commercial projects. There is a tremendous demand for landscape-related work and not enough landscape architects to do all of it. The original bill would have increased costs for consumers.

(In support with amendment) There is a fair amount of confusion about what constitutes landscape architecture. Landscape architecture is about creating open public space and has some very technical aspects. It is not just about horticulture and design. The education of a landscape architect is extensive and very technical. It is important to separate landscape design from the technical nature of landscape architecture. The bill contains strict standards tied to public health and safety.

The exemptions in the bill were developed after extensive conversations with other groups and stakeholders. Landscape architecture is a well-established profession in contrast with other professional groups considered by the committee. The scope of practice does not include areas where the services of a landscape architect are not needed. This not a turf war and the bill will not infringe on the practice of landscape designers, contractors, or professionals.

The Senate floor amendment begins to involve municipalities and counties in the regulation of landscape architecture. It is unclear how it would be administered.

Landscape architecture is an export industry. Forty-one out of 50 states have practice acts. Without consistency, landscape architects are worried about reciprocity with other jurisdictions.

(Neutral) Some of the language related to exemptions from landscape architecture licensing is confusing and might be difficult to implement. The Department would attempt to clarify in rulemaking.

(Opposed) None.

Persons Testifying: (In support) Brent Chapman, South Puget Sound Community College; Randy Dasalla, Washington Association of Landscape Professionals; Kate Easton and Jeanne McNeil, Washington State Nursery and Landscape Association; and Vanessa Nagel and Daniel Lowery, Association of Professional Landscape Designers.

(In support with amendment) Chris Overdorf, Jones and Jones Architects and Landscape Architects; Travis Price, D.R. Strong Consulting Engineers; Greg Murphy, Bob Droll, and

Curtis Lapierre, American Society of Landscape Architects; Terri Hotvedt, Washington Society of Landscape Architects; and Stan Bowman, American Institute of Architects Washington Council.

(Neutral) Ralph Osgood, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Commerce & Labor. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on July 1, 2009.

Staff Summary of Public Testimony:

None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.