



**House
Legislative
Analysis
Section**

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THE APPARENT PROBLEM:

It has recently been suggested that there is a growing problem within the state regarding people who engage in unethical landscape architect practices. According to landscape architect industry representatives, consumers have been injured by unsafe projects developed by landscape architects. Under the current registration provisions of the Occupational Code, industry representatives say there is no mechanism to address unsavory landscape architect practices. Registration of persons practicing landscape architecture is not required; even if a person's registration is revoked, he or she can still practice landscape architecture without using the title of landscape architect. Many feel that the time has come for licensing landscape architects, due to technological advances in the field requiring increased expertise. Further, concern has been expressed about the need for accountability regarding problems that may occur with a landscape project due to its location in the environment, for example, a project undertaken within a wetland. Legislation has been introduced to address these issues.

THE CONTENT OF THE BILL:

House Bill 5406 would amend the Occupational Code to require a person to become licensed before engaging in the practice of landscape architecture with or without compensation. In addition, the bill would prohibit a person from using terms that could connote qualification of licensure if the person did not possess a license. The bill would provide for licensing of individuals and would prohibit licensing of businesses. Further, a business could not use terms that would connote licensing in the firm name or description unless an individual licensed under the bill was an officer, principal, or supervisory employee of the entity and was available to perform the activities for which the license was required. These prohibitions would not apply to licensed architects, engineers, land surveyors, residential builders or maintenance and alteration contractors, and foresters. Nor would the provisions apply to owners of one or two-family residences, persons licensed or registered as landscape architects in another state or jurisdiction while in Michigan to present a proposal for professional services, or persons offering services as a landscape gardener or contractor or nursery operator when the person offered limited services such as the growing of plants, assisting customers in selecting appropriate plants for a specific use, physical installation of plants or maintenance of plants, development of a plan designating the placement and selection of plants for residential and commercial property, the construction of a site appurtenance, or the design of a site appurtenance for the development of a plan for the location of the site appurtenance except where such a design or a plan was required to be prepared by an individual licensed under the bill.

**House Bills 5406 (Substitute H-2) and
5407 Substitute (H-1)
First Analysis (3-19-90)**

Sponsor: Rep. Michael J. Griffin

Committee: Conservation, Recreation, & Environment

Qualifications. The bill would require landscape architect license applicants to be at least 18 years of age and of good moral character. In addition, applicants would be required to have a baccalaureate or advanced degree from an accredited program of study in landscape architecture or have at least a baccalaureate degree in a related field and have completed courses in landscape architecture acceptable to the Board of Landscape Architects. Further, the person would have to have completed at least four years of professional experience in landscape architecture satisfactory to the board and would have to pass an examination developed and given by the Department of Licensing and Regulation and the board. If an applicant did not complete the bill's requirements within ten years after receiving an application, the application would be void. The bill would allow the board to use an examination developed by another person if the examination met standards developed by the board and the department. The board could develop rules relating to continuing professional competency and could adopt a program of continuing professional competency established by another person if the board determined that the program met the standards established by the board's rules. Licenses of landscape architects would be renewed by the department upon submission of evidence of completion of a program of continuing professional competency.

Out-of-state license applicants. Under the bill, a license would be issued to individuals who were registered or licensed as landscape architects in another state or country if the applicant met the requirements which were in effect in this state at the time the applicant obtained his or her first license or registration, or if the applicant met the requirements in effect at the time application for licensure was made by the applicant in this state. The board could require out-of-state or foreign applicants to sit for an examination on the conditions of practice in this state.

License seals. The board would develop rules relating to the style and form of a seal to be used by licensees when filing documents with a public authority. The seal would signify that the person licensed under the bill was professionally responsible for the document and its contents, ensuring that the document complied with appropriate standards, and that the individual was accountable for the work of subordinates. Persons who were already registered under the code and who became licensed under the bill could use their registration seal for documents submitted to public authorities.

Penalties. A person who violated the bill's provisions would be subject to the penalty provisions of the Occupational Code. Penalties would be included for persons who implied or falsified licensure or qualifications for licensure, for persons who engaged in deceptive practices regarding license seals, and for persons who allowed a person not

H.B. 5406 (3-19-90)

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licensed to engage in the practice of landscape architecture in the state.

Grandparent provisions. Individuals who applied for registration as a landscape architect before the effective date of the bill would qualify for licensure under the standards that were in effect at the time of the individual's application. Upon successful completion of those requirements, the department would issue a license as a landscape architect to the individual. Individuals who were registered under the code on the effective date of the bill would be issued a license upon expiration of their registration.

The bill would repeal an obsolete section of the code which references registration procedures. The bill is tie-barred to House Bill 5407.

MCL 339.2201

House Bill 5407 would amend the State License Fee Act to change references to registration fees to references to license fees. In addition, the bill would change the fees for certain examinations, and create a fifth examination by dividing examination four, as follows:

Exam	Current Fee	Proposed Fee
* complete examination	\$265	\$345
* Section 1 of the exam	\$ 25	\$ 34
* Section 2 of the exam	\$ 35	\$ 41
* Section 3 of the exam	\$100	\$112
* Section 4 of the exam	\$125	\$106
* Section 5 of the exam	—	\$ 77

The bill is tie-barred to House Bill 5406.

MCL 338.2215

FISCAL IMPLICATIONS:

The Department of Licensing and Regulation has not analyzed the fiscal implications of the bill at this time, but expects increased administrative costs due to the expected sudden influx of license applicants. There may be increased costs if the state does not charge the total increase in test fees to test applicants. (3-15-90)

ARGUMENTS:

For:

The landscape architecture profession has become quite advanced both educationally and technologically within the past decade. Industry representatives assert that around the nation there are now at least 50 baccalaureate and masters degree programs available for landscape architects. In addition, with increasing environmental consciousness, landscape architects are addressing problems that were not considered as recently as ten years ago. Licensure of the industry will help to ensure that educational standards are maintained and updated to address technological changes within the industry. In addition, it will help weed out unethical landscape architects by prohibiting them from practicing the profession if they have violated the bill's provisions, and it will ensure accountability for landscape architect projects.

Against:

While licensing can be important to ensure the safety, health, and welfare of the public, it can also have harmful effects. Licensing works restrict entry into a profession, raise prices, and restrict consumer to choices often without any significant countervailing benefit. When assessing the need for license of a profession it is standard practice to evaluate whether licensing is needed to protect the health, safety and welfare of the public and whether there is other regulation available. Several issues have been raised that cast doubt on the necessity of licensing landscape architects.

- According to information from the Department of Licensing and Regulation, the annual average number of complaints against landscape architects is only two, usually filed by registered landscape architects on the grounds that people are using the title of landscape architect without being registered.
- Currently there are 300-400 registered landscape architects in the state, and approximately 30-45 people annually take the test to become registered as landscape architects.
- The test that is currently given to applicants for registration as landscape architects is the same test that the bill proposes be given to applicants for license as landscape architects, and although section four of the test is to be divided in order to add a section five to the test, all of the fees for the test are proposed to be increased.

Response: The test fees are not controlled by the state. The Council of Landscape Architect Registration Board (CLARB) establishes the fees for the test (similar boards exist for the architect, engineer and land surveyor professions) and charges the state the fee for each test. It is just coincidence that the national fees were increased at the same time that the bill is being considered; legislation to increase the fees would have been needed regardless of whether licensing was addressed. In addition, the bill specifies that the department and board can develop a test, so test costs will not necessarily have to increase.

Rebuttal: As a matter of practicality, CLARB is the entity that develops the test, and industry representatives, the department, and consumer advocates all agree that it is possible that CLARB may raise test fees again and that the increased costs will be passed along to the state. In addition, the concern has been expressed that landscape architects will charge more for their services once their industry is licensed due in part to the increasing requirements and costs for licensing.

POSITIONS:

The Michigan Chapter of the American Society of Landscape Architects supports the bills. (3-13-90)

The Michigan Nursery and Landscape Association supports the bills. (3-13-90)

The Consulting Engineers Council of Michigan does not oppose the bills. (3-14-90)

The Department of Licensing and Regulation has no position on the bills. (3-14-90)

The Michigan Consumers Council supports deregulation of the practice of landscape architecture. (3-14-90)