



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 382 (Substitute S-3 as reported)  
Senate Bill 383 (Substitute S-3 as reported)  
Sponsor: Senator Wayne Kuipers  
Committee: Economic Development and Regulatory Reform

*(as passed by the Senate)*  
*(as passed by the Senate)*

Date Completed: 12-2-08

### **RATIONALE**

Landscape architecture is the analysis, planning, design, and management of the natural and built environment. Landscape architects analyze the environmental impact of proposed developments, plan for pedestrian and vehicular traffic, and determine the best uses of particular sites. While most states have licensure and continuing education requirements for landscape architects, Michigan's Occupational Code requires registration and does not contain continuing education requirements. In order to enhance the practice of landscape architecture in Michigan, bolster the professional development of the Michigan's landscape architects, and make the State an attractive location for students and graduates of the profession, it has been suggested that landscape architecture should be a licensed profession in Michigan.

**adopting rules for continuing education and continuing competency, providing for exceptions to the licensing standards, and establishing recommendations for license sanctions for violations.**

- **Require a majority of ad hoc committee members to be licensed architects.**
- **Require a demonstration of continuing professional competence for renewal of a license as a landscape architect.**
- **Allow DLEG to issue a landscape architecture license without examination to an applicant who was legally registered, licensed, or regulated in another state or country whose requirements were at least substantially equivalent to Michigan's requirements.**

### **CONTENT**

**Senate Bill 382 (S-3) would amend the Occupational Code to do all of the following:**

- **Require licensure, rather than registration, for a person to engage in the practice of landscape architecture.**
- **Allow an unlicensed person to perform or offer certain landscaping services if he or she did not use the term "landscape architect".**
- **Require the Director of the Department of Labor and Economic Growth (DLEG) to appoint one or more ad hoc committees to assist in**

**Senate Bill 383 (S-3) would amend the State License Fee Act to increase the application fee for landscape architects from \$35 to \$200, and require a \$60 annual license fee rather than a \$40 annual registration fee.**

The bills are tie-barred and would take effect 120 days after their enactment.

### **Senate Bill 382 (S-3)**

Article 22 (Landscape Architects) of the Occupational Code defines "landscape architect" as a person qualified to practice landscape architecture and includes in the definition of "practice of landscape architecture" the performance of

professional services such as consultation, investigation, research, planning, design, or responsible field observation in connection with the development of land areas where, and to the extent that the dominant purpose of the services is the preservation, enhancement, or determination of proper land uses, natural land resources, ground cover and planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvement, natural drainage, and the consideration and determination of inherent problems of the land relating to erosion, use and stress, blight, or other hazards.

Article 22 specifies that it does not preclude a registered landscape architect from performing any of those services in connection with the settings, approaches, or environment for buildings, structures, or facilities. The bill specifies that Article 22 would not prohibit a licensed landscape architect from performing those services. The bill also specifies that the licensure requirement of Article 22 would not prohibit a person from performing or offering services as a landscape designer, landscape gardener, landscape contractor, or landscape nursery operator as long as that person did not use the term "landscape architect".

The Code created the board of landscape architects, but Executive Reorganization Order (ERO) 2007-17 transferred its powers and duties to DLEG and abolished the board. The bill would delete the statutory provision creating the board.

The bill would require the DLEG Director to appoint one or more ad hoc committees to assist him or her in adopting rules regarding the setting of standards for continuing education and continuing competency courses and programs, providing for exceptions to the licensure standards in extraordinary cases, and establishing specific license sanction recommendations for certain violations. The committees could consist of as many members as the Director considered necessary, but would have to include at least a majority who were licensed under Article 22. The ad hoc committees appointed under the bill would serve during the processing of the rules and could make recommendations and suggested revisions regarding the content of the rules.

Currently, an applicant for registration must be of good moral character and must pass a written examination developed by DLEG. In addition, each applicant is required to have had at least seven years of training and experience in the actual practice of landscape architecture. The bill would refer to the actual implementation and practice of landscape architecture.

Under Article 22, all requirements for registration must be completed within 10 years after DLEG receives an application for registration. If they are not, the application is void. Registration is on an individual basis, and DLEG may not register a partnership, association, corporation, or public agency under the article. The bill would refer to licensure, rather than registration, in these provisions.

The bill would require a demonstration of continuing professional competence for renewal of a license, as determined by DLEG and provided for by rule of the DLEG Director.

Article 22 allows the Department to issue a registration without examination to an applicant who is legally registered or licensed as a landscape architect in any other state or country whose requirements for registration or licensure are at least substantially equivalent to Michigan's requirements. Under the bill, DLEG could issue a license without examination to an applicant who was legally registered, licensed, or regulated in any other state or country whose requirements for registration, licensure, or other regulation were at least substantially equivalent to Michigan's requirements.

Article 22 requires each landscape architect to have a seal, approved by DLEG, which must contain the name of the landscape architect, the serial number of his or her certificate of registration, and the legend "landscape architect, state of Michigan" and other words or figures that DLEG considers necessary. The bill would require the seal to contain the number of the landscape architect's license rather than the serial number of his or her certificate of registration.

A landscape architect who indorses a document with his or her seal while his or her certificate of registration is not in full

force and effect, or who indorses a document that he or she did not actually prepare or supervise the preparation of, is subject to penalties prescribed under the Code. The bill would refer to a landscape architect's license, rather than his or her certificate of registration.

Article 22 prohibits a person from using or advertising any title or description tending to convey the impression that he or she is a landscape architect unless he or she is registered under the article. The bill would prohibit a person from using or advertising the title "landscape architect" or any description tending to convey the impression that he or she was a landscape architect unless he or she were licensed under Article 22.

### **Senate Bill 383 (S-3)**

The State License Fee Act establishes fees for a person registered or seeking registration as a landscape architect under Article 22 of the Occupational Code. The bill would refer to fees for a person licensed or seeking licensure as a landscape architect under Article 22.

Currently, the Act prescribes a \$35 application processing fee (which is scheduled to drop to \$30 on October 1, 2012). The bill would increase that fee to \$200 and retain it at that level. Also, the Act includes a \$40 yearly registration fee. The bill instead would require a \$60 yearly license fee.

MCL 339.2201 (S.B. 382)  
338.2215 (S.B. 383)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Landscape architects are crucial to many developments and improvements and other land use decisions. By analyzing natural elements, considering how a site will be used, assessing existing structures and infrastructure, evaluating a project's impact on the natural environment, producing detailed site plans, and developing plans for plants, trees, shrubs, and flowers, landscape architects design parks, residential

developments, campuses, shopping centers and other commercial developments, gardens, golf courses, and recreational areas. The profession includes rigorous educational standards and requires continuous learning and experience in order to provide the best services possible. Michigan has two nationally renowned landscape architecture educational programs: a five-year undergraduate curriculum at Michigan State University and a three-year graduate studies program at the University of Michigan. Nevertheless, the State is one of only nine that does not require professional licensure to practice as a landscape architect. In order to elevate the stature of this profession in Michigan, the State should join the 41 others that require licensure.

Also, a component of professional licensure often includes requirements for continuing professional development as a condition for maintaining licensure, and most landscape architects need to participate in life-long learning, through education and experience, to stay up-to-date in the profession and provide the best service possible to their clients. To that end, Senate Bill 382 (S-3) would require a demonstration of continuing professional competence for renewal of a license and would mandate that the DLEG Director appoint at least one ad hoc committee, a majority of whose members would have to be licensed landscape architects, to assist in adopting standards for continuing education and continuing competency courses and programs and in policing the profession by establishing licensing sanctions for violations. By increasing the application processing fee and the annual licensure fee for landscape architects, Senate Bill 383 (S-3) would provide the resources necessary for this added level of professional development and regulation for landscape architects.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would increase revenue to the Department of Labor and Economic Growth. Landscape architects currently are registered by the Department, paying an initial application fee of \$35 and an annual registration fee of \$40. Under current law, the application fee will decline to \$30 on October 1, 2012. The bills would increase

the application fee to \$200, remove the sunset date, and, with the proposed change from registration to licensure, increase the annual fee to \$60. It is estimated that this would increase the revenue to the Department by approximately \$29,840 over the two-year licensing period if there are 20 new applicants per year. Additionally, the bill would not "grandfather" current registrants as licensees; therefore, if each were required to reapply, an additional \$95,800 could be collected in the first year. Revenue from these licensing fees is used for the operational costs of the Department. The Department would experience some increases in responsibilities, including the development and administration of continuing education requirements for landscape architects, but these are expected to impose few additional costs.

Fiscal Analyst: Elizabeth Pratt  
Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.