



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

House Bill 5025 (Substitute H-2 as passed by the House)
House Bill 5026 (Substitute H-2 as passed by the House)
Sponsor: Representative Marie Donigan
House Committee: Commerce
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 12-2-08

CONTENT

House Bill 5025 (H-2) would amend Article 22 (Landscape Architects) of 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 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 adopting rules for continuing education and continuing competency, providing for exceptions to the licensing standards, and recommending license sanctions for violations.**
- Require a majority of ad hoc committee members to be licensed architects.**
- Require a demonstration of continuing professional competence for license renewal.**
- 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.**

House Bill 5026 (H-2) 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.

House Bill 5025 (H-2)

Article 22 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 bill would delete a provision creating the board of landscape architects. (Executive Reorganization Order 2007-17 transferred its powers and duties to DLEG and abolished 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 of members who were licensed under Article 22. The committees would serve during the processing of the rules and could make recommendations and suggested revisions regarding their content.

Currently, an applicant for registration must be of good moral character and 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.

House Bill 5026 (H-2)

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 339.2201-339.2211 (H.B. 5025)
338.2215 (H.B. 5026)

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 from application fees by approximately \$34,000 over the two-year licensing period if there are 200 new applicants during that time. Revenue from the increased renewal fee is estimated at \$24,700 every two years. Revenue from these 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, which could be covered by the additional revenue authorized by the bills.

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.