

Observations of the Proposed Landscape Licensing Bill
By
New Jersey Landscape Contractors Association
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General Comments:

Bill S-2302, a proposed bill to license landscape contractors in the state of New Jersey, was not created as an answer to an existing problem. The Bill seems designed only to serve as a vehicle to collect more revenue in the form of fees and fines, and does not address a real environmental problem. There are many other long standing certifications and licenses already available that cover many aspects of this Bill, including the Home Improvement Contractor License, the Certified Landscape Professional certification, the Certified Landscape Technician certification, the Certified Nursery and Landscape Professional certification, Certified Landscape Designer certification, Certified Tree Expert certification, Pesticide Applicator license, Certified Aquascape Contractor certification, Interlocking Concrete Pavement Institute certification, Certified Irrigation Contractor, Designer, or Auditor certification, the Plant Dealers license, as well as various higher education degrees in horticulture, landscape architecture, turf science, landscape design, farm technology, arboriculture, etc. This bill strikes us as unnecessary duplication of existing programs. Finally, many landscape contractors in New Jersey already carry multiple licenses and certifications, and despite this bill will have to continue to do so, including Home Improvement Contractors license, Irrigation certification, Plant Dealers license, Pesticide license, etc.

Section 2

1. In Section 2, the definition of “Advertise” is too inclusive.
2. “Grading and drainage” is often done by other types of contractors, including excavators. Is it proposed that they be licensed as landscape professionals as well? This definition is in contradiction to Section 21(f).
3. It is stated ““Hardscaping” means the installation of impervious or pervious surfaces made of stone, concrete, or aggregate.” Does this include those installing driveways as well? If this is the case, now driveway installers must be licensed as landscape professionals.
4. In this same section, references to grading, drainage work, erosion control methods, hardscaping, site preparation, etc. are areas where contractors/ excavators routinely perform their jobs. This would prevent them from engaging in this type of work. Many of them also are engaged in hardscaping (driveways and sidewalks). The exemption noted in Section 21 f only allows them to do these tasks on “new construction sites.”
5. The reference to hydroseeding on Page 3, Lines 16-18 should be omitted since hydroseeding is not legal in NJ under the NJ State Soil Erosion and Sediment Control Regulations.
6. This bill proposes a “landscape lighting professional”. There are current laws that already cover this profession.
7. Under “landscape management professional”, “pest identification and control” are included. Does this bill propose to replace the pesticide license as well?

8. Also in this section, in the definition of landscaping, you include Tree Pruning. Should this be included, considering there are Certified Tree Experts.
9. Also included are “low-voltage lighting, irrigation, and water features”. These should not be included in a landscape licensing bill. Furthermore, there is current licensing that regulates irrigation, as well as a current issue with the low-voltage lighting. If a person is a Water Feature Specialist and all they do is install ponds, they will still have to be licensed as a landscape contractor. They should have their own certification. What about the businesses that offer only these services?
10. Root Pruning and root excavation should be done by arborists and not landscape contractors, so why license these people as landscape professionals?
11. Air and water quality are discussed. Will this tie landscapers into air and water controls that will be overseen by the EPA?

Section 3

12. In this section, the members of the License Review Board are listed. We do not feel that it is necessary to specify the type of college, nor a particular school or person for this position. It should simply be an educator or member of an educational institution. Furthermore, there is no need to offer a position to a “communications or public relations” specialist. What is the purpose of the representative with communications or public relations experience? This specifically gives access to the author of this bill to be on the Board. How is that position filled once that specific individual is no longer around? Finally, we believe that the “public member” should be one that does not derive income from the landscaping industry or the implementation or enforcement of this bill. We believe that members of the Review Board should be landscape contractors, a member of an institution of higher learning in the field of agriculture/ forestry/ horticulture, and a public member who does not derive income from the implementation or enforcement of this bill.
13. In Sections 3 – 5, the board make-up appears to be too political and slanted in favor of educators. It appears to be self-serving to the people who created it. Furthermore, there seems to be no need for a board member who is a public relations specialist. It is impossible for the board (based on it’s makeup and pay scale) to accomplish the items listed in section 7 (p6). This sets up parameters for a new governmental group as it will take full time personnel to accomplish the issuance of licenses, maintenance of a registry, establish fees, write criteria for obtaining licensing, etc.
14. Furthermore, there are positions for two representatives of the nursery industry. Nurseries should not be regulating landscape contractors. If it is necessary, then they should be non-voting members.
15. There are too many ex officio, non voting members who are members of this Board. Of the 15 Board members, six will fill these positions. This should be a Board consisting of Landscape Contractors to govern their industry. Certainly, a member of the Dept. of Agriculture is appropriate and one to two college representatives are fine. However, they are there to advise, not be motivating factors to run the Board.

16. If this is overseen by the Dept. of Agriculture, what will happen if this department is disbanded?

Section 5

17. Members of the Board will be compensated. Why is this necessary?

Section 6

18. A secretary will be elected. Is this a paid position? If so, this person should NOT be a member of the Board.

Section 7

19. Section 7(h) states that the Review Board shall identify and recognize professional associations. This clause can be used maliciously to discredit any association. All landscape contractor and Green Industry associations in the state of New Jersey should be included. The Board should have no right to promote or destroy any association. What it should say is "To advise and assist trade associations in conducting construction trade seminars and industry education and promotion".

Section 9

20. Section 9(b) states that the licensee be "of good moral character". This is out of line as well. Who determines, and how do you determine who is of good moral character?

21. In Section 9, the education requirements in this bill can not probably be met by most of the landscapers in business today. The other problem is that only 2 community colleges and Rutgers offer Horticulture (landscaping) courses. The age limit, high school diploma and the 90 hours of classroom instruction deter many from entering the field of landscaping. How many people in the business today started before they were 18, and had a high school diploma or even now may not have 90 hours of classroom instruction.

Section 11

22. If a landscaper from out of state should have a customer in New Jersey, but his/her state does not have a license law, would they be required to get a NJ license? Considering none of the states surrounding NJ requires a license, this appears to exclude anyone from out of state from working in NJ.

Section 15

23. In Section 15(a), it states that the board can revoke or suspend a license if the licensee has failed to ensure the safe operation of all equipment. How would the board know this? Simply by word of mouth? Further, who would conduct a hearing to decide this?

24. Again, how would one decide whether work is conducted in a manner not in compliance with the standards approved by the board (Section 15(b))? How would this be reported, by another contractor, a customer?

25. Section 15(h) does not specify what type of records that would be required. Before anyone can agree to this bill, this needs to be clarified.

26. Regarding the penalties in Sections 15 and 18, who will enforce them? This type of legislation breeds much discontent, as landscapers will be monitoring others to see if they are in compliance.

Section 17

27. Section 17(a) would be acceptable if it would actually work. We need less licenses, registrations, and decals on our vehicles. If the towns do not comply or this piece is removed from the bill, it will just be one more expense for the contractor.

Section 18

28. Section 18 contradicts Section 17. First, it is stated that it will supersede everything, but then it states that it will not deny municipalities from regulating.

29. Section 18 opens the door for municipalities to impose municipal ordinances or regulations such that you would have to obtain a license/permit from them to do any work in that municipality. This makes for a lot of paperwork and logistics before you can start work and I am sure it will cost you more money.

30. Section 20's portion that requires that contracts over \$500.00 be in writing is already covered by the NJ Bureau of Consumer Affairs Home Improvement Contractors Registration Act.

Section 22

31. In section 22(e) discusses that one with 10 years experience of a grade and character acceptable to the board, is grandfathered. How does one decide the right grade and character?

Section 23

32. Section 23 discusses penalties. We feel that fines should come before revocation of license. This may add to the cost of doing business, however, we still see no mention of an effective means of enforcing this bill. Furthermore, the initial fines are exorbitant.

General Observations

33. Is this too broad of a Bill? If it is meant to define and protect the work that we do, then is it a Bill that protects the citizens of NJ or is it to protect the contractor?
34. Regarding continuing education, how much will be involved? Will it provide a true education and enlightenment, or another event that must be endured in the name of being a contractor?
35. We feel the need to see what the examination will consist of before introducing the bill to legislature.
36. Regarding other fees, this license must take the place of the HIC license and the "runaway" registering of businesses with local towns. We pay enough fees and have enough decals on our trucks; we do not need more.
37. Regarding other trades, if other trades perform the work we do, they need to be licensed as well. Doing grading work after a septic project would require that they fall into the same requirements as we as landscape professionals will be under. What about the

mason who builds a wall? Will he be exempt? Or does he fall under the same requirements as the landscape professional?

38. If the goal of any Bill is to protect the citizens of the State, then let's make the HIC license more effective and more encompassing. Have it include maintenance work so that it does supersede town ordinances. Have it actually enforced and mean something.
39. Do not think that licensing a profession will all of a sudden make the whole industry a group of white color professionals. Reality is that the rates charged will stay the same. There will still be competition and the only way to surpass your competition or charge more for work is to provide a better service and actually act professionally. A piece of paper will not do that.
40. This bill, in general, discourages individuals from entering the landscaping field, as the educational and work experience requirements are too stiff.