

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 30, 1998 Revised: 3/31/98 _____

Subject: Landscape Designers

| | <u>Analyst</u> | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u> |
|----|----------------|-----------------------|------------------|------------------------|
| 1. | <u>Luken</u> | <u>Poole</u> | <u>AG</u> | <u>Fav/1 amendment</u> |
| 2. | <u>_____</u> | <u>_____</u> | <u>RI</u> | <u>_____</u> |
| 3. | <u>_____</u> | <u>_____</u> | <u>WM</u> | <u>_____</u> |
| 4. | <u>_____</u> | <u>_____</u> | <u>_____</u> | <u>_____</u> |
| 5. | <u>_____</u> | <u>_____</u> | <u>_____</u> | <u>_____</u> |

I. Summary:

This bill defines the term “landscape designer,” authorizes the Department of Agriculture and Consumer Services to issue and suspend the registration of landscape designers, provides authority for rulemaking, preempts regulatory authority over landscape designers to the department, prohibits landscape designers from providing services without a valid renewal of registration, provides standards for the registration of landscape designers, provides authority for the suspension or revocation of a landscape designer’s registration, and provides for fines.

This bill has an effective date of July 1, 1998.

This bill substantially amends sections 581.011, 581.031, 581.035, 581.131, and 581.141, Florida Statutes.

II. Present Situation:

The Florida Landscape Designers Association defines landscape design as:

. . . consultation for and preparation of planting plan drawings for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials, and xeriscape design, and includes recommendation of the conceptual placement of tangible objects and other elements for landscape design projects, provided that construction documentation for such tangible objects shall be designed or approved by appropriately licensed design professionals, as required by law.

Landscape designers are not currently regulated in Florida except to the extent that they are not

permitted to perform the tasks of a landscape architect. Section 481.303, F.S., defines landscape architecture as:

professional services, including, but not limited to, the following: consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Xeriscape . . . , where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values . . . , the setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems. . . .

Section 481.309, F.S., requires that a person desiring to be licensed as a registered landscape architect must apply to the Department of Business and Professional Regulation, take the licensure examination, complete a professional degree program in landscape architecture or meet an experiential requirement approved by the Landscape Architectural Accreditation Board, and meet a practical experience requirement of 1 year.

Section 481.323, F.S., prohibits and provides penalties for practicing landscape architecture without a valid license. However, s. 481.329 (5), F.S., creates an exception for nurserymen, stock dealers, or agents that hold a valid license issued by the Department of Agriculture and Consumer Services under ch. 581, F.S., insofar as he or she engages in the preparation of plans or drawings as an adjunct to merchandising his or her product, so long as he or she does not use the title “landscape architect.” Many nurseries provide plans for the placement of plants for a fee.

Florida A&M University offers a 4-year degree in landscape design to prepare students for public and private careers as landscape designers, landscape contractors, park managers, urban foresters, interiorscape designers and environmental managers. Nine community colleges offer a 2-year degree in landscape technology or ornamental horticulture technology: Broward, Lake City, Miami-Dade, Central Florida, Hillsborough, Palm Beach, Pensacola, Santa Fe, and Valencia. There are also 24 technical centers which offer a 1-year course of study. The University of Florida, Florida A&M University, and Florida International University offer professional degrees in landscape architecture.

III. Effect of Proposed Changes:

Section 1: Renumbers s. 581.011, F.S., to include a definition of “landscape designer,” as one who engages for compensation in consultation concerning the planning design or construction of exterior spaces using plant materials and incidental paving and building materials.

Section 2: Amends and appends to s. 581.031, F.S., granting the Department of Agriculture and Consumer Services the power to suspend or revoke certificates of inspection and of registration

to landscape designers; to make and issue certificates of registration to landscape designers which authorize them to operate within the state; and to adopt rules relating to certificates of registration for landscape designers.

Section 3: Amends s. 581.035, F.S., to eliminate the duplication of regulatory authority over landscape designers by preempting the regulatory authority over landscape designers to the Department of Agriculture and Consumer Services.

Section 4: Appends to s. 581.131, F.S., providing that failure of a landscape designer to renew their registration or paid the fee within 31 days after the renewal date will not be permitted to provide landscape design services until he or she has renewed the certificate of registration. This section also provides that prior to any landscape designer providing any services, he or she must apply to the Division of Plant Industry for a certificate of registration. The Department of Agriculture and Consumer Services is to provide qualifications for registration by rule. Minimum criteria for qualifications are to include:

- A bachelor's degree in ornamental horticulture, landscape design and management, or a related field from an accredited university;
- An associate of science or arts degree in landscape design, horticulture, landscape management, or a related field from an accredited community college and 2 years of documented experience in landscape design;
- A 1-year certificate in ornamental horticulture, landscape management, or a related field from an accredited technical center and 4 years of documented experience in landscape design;
- Six years of experience in landscape design; or
- Certification in landscape design issued by a not-for-profit organization whose criteria are determined by the department as being at least as stringent as the above.

This section also provides that these requirements are not to apply to architects, landscape architects, engineers, contractors, arborists, tree trimming and tree removal services, tree moving services, or lawn maintenance services or landscape maintenance services.

Section 5: Amends s. 581.141, F.S., to provide revocation and suspension of a certificate of registration granted to a landscape designer if such a designer is providing landscape design services in violation of the provisions of the chapter. This section also provides that the department may impose a fine up to \$5000 or probation not exceeding 12 months or both upon any landscape designer found to be in violation of the ch. 581, F.S. Such a fine or probation may be in addition to or in lieu of the suspension or revocation of a certificate of registration.

Any administrative order entered by the department imposing a fine must specify the amount of the fine and the time limit for payment, which is not to exceed 15 days. Failure to pay the fine on time may result in the certificate of registration being suspended or revoked without further hearing, and a fine of \$100 per day may be imposed for each day the violation continues.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Landscape designers would be required to pay a fee to be registered with the department and would receive any economic benefit associated with the registration.

C. Government Sector Impact:

The department has projected the bill’s fiscal impact as follows:

FISCAL IMPACT ON
THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

| | Amount Year 1 (FY 98-99) | Amount Year 2 (FY 99-00) | Amount Year 3 (FY 00-01) |
|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Total Non-recurring Costs | 70,215 | -0- | -0- |
| Total Recurring Costs | 31,363 | 32,097 | 32,853 |
| Non-Operating Costs | 3,326 | 3,894 | 3,950 |
| Total All Costs | 104,904 | 35,991 | 36,803 |
| Anticipated Revenues from Fees | 20,000 | 20,000 | 20,000 |
| Overall Fiscal Impact | <u>\$84,904</u> | <u>\$15,991</u> | <u>\$16,803</u> |

The Department of Agriculture and Consumer Services has indicated that to manage this program the department would require an additional word processing systems operator, and a data processing system to process applications for certification and the annual renewal. The department anticipates revenues from the program in the form of fees from landscape designers, estimating that there are 200 landscape designers in the state and that the fee would be set by the department at \$100 a year.

VI. Technical Deficiencies:

In Section 1, the definition of “landscape designer” appears to have an extraneous word. The text reads: “‘Landscape designer’ means a person who engages, for compensation, in consultation concerning or the planning, design, or construction of exterior spaces. . . .” The “or” following “concerning” should be deleted for clarity.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture:

Strikes everything after the enacting clause. This amendment alters and places the definition, certification requirements, and application criteria for landscape design in ch. 481, F.S.

Section 1: Appends to the definitions in s. 481.303, F.S., an amended definition of “landscape design,” to include the consultation for and preparation of planting plan drawings for compensation; the specification and installation details for plant materials, soil amendments, mulches, edging, gravel, other similar materials, and xeriscape design; and the recommendation for conceptual placement of tangible objects provided that the actual construction documentation for tangible objects be designed by licensed design professionals.

Section 2: Appends to s. 481.329, F.S., creating an exemption from licensure for any person engaging in the practice of landscape design provided that the person has been issued a certificate of qualification from the Department of Business and Professional Regulation.

Section 3: Creates s. 481.333, F.S., amending the criteria for certification by limiting the 6 years of full-time practical experience criteria to only those persons who have that experience as of the effective date, and by allowing certification by a nationally recognized organization in landscape design to be included as an acceptable criterion. This section requires those seeking exemption through a certificate of qualification to apply to the Department of Business and Professional Regulation and provide proof of meeting one of the criteria. The department is granted the power

to create an application form and to charge a one-time fee no higher than \$100. The revenues generated from this fee would be less than indicated in the fiscal analysis provided by the Department of Agriculture and Consumer Services.

Section 4: Provides an effective date of October 1, 1998. (WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
