



November 2015
PE 15-12-579

REGULATORY BOARD REVIEW

BOARD OF LANDSCAPE ARCHITECTS

AUDIT OVERVIEW

Regulation of Landscape Architects Is Necessary to Protect the Public, but Consideration Should Be Given to Regulation by Registration and Placing the Registration Function Under Another Board to Improve Its Operation and Public Accessibility

The Board of Landscape Architects Needs to Improve Compliance With the Provisions of Chapter 30 of West Virginia Code

The Website for the West Virginia Board of Landscape Architects Needs Improvements to Enhance User-Friendliness and Transparency



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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted a Regulatory Board Review of the Board of Landscape Architects (Board) pursuant to *West Virginia Code §4-10-10(b)(8)*. Objectives of this audit were to determine if regulation of landscape architecture is needed to protect the public, assess the Board's compliance with provisions of Chapter 30 and other applicable laws, and evaluate the Board's website for user-friendliness and transparency. The report contains the following issues:

Frequently Used Acronyms in this Report:

PERD- Performance Evaluation and Research Division

Board- West Virginia Board of Landscape Architects

CLARB- Council of Landscape Architectural Registration Boards

ASLA- American Society of Landscape Architects

Report Highlights:

Issue 1: Regulation of Landscape Architects Is Necessary to Protect the Public, but Consideration Should Be Given to Regulation by Registration and Placing the Registration Function Under Another Board to Improve Its Operation and Public Accessibility.

- Landscape architecture presents a potential for harm to the public that is real and not remote and regulation of the profession is necessary to protect the public.
- The Board regulates a small number of licensees, receives few complaints, is inaccessible to the public, and is in noncompliance with a number of Chapter 30 provisions, likely resulting from the fact that the Board has no staff. Therefore, consideration should be given to eliminating the Board and placing regulation of landscape architects under another board, such as the Board of Registration for Professional Engineers.
- Given that the greatest threat of harm resulting from landscape architecture is financial in nature, consideration should also be given to regulation by registration rather than licensure.

Issue 2: The Board of Landscape Architects Needs to Improve Compliance With the Provisions of Chapter 30 of West Virginia Code.

- The Board is financially self-sufficient and has established continuing education requirements, however, the Board has not developed a procedural rule for handling complaints, does not maintain a register of applicants for licensure, or submit annual reports as required.

- Although the Board generally complies with requirements to file meeting notices and for the chairperson to annually attend the State Auditor’s seminar, each of these requirements was violated once.
- Use of the State Treasurer’s lockbox system and providing online license renewal would enhance internal controls and help mitigate the risk of fraud.
- The Board is not accessible to the public due to its physical location being within a board member’s place of business.
- Many of the Board’s deficiencies can be attributed to its lack of staff and could be corrected by placing regulation of landscape architects under the purview of another board as recommended in Issue 1 rather than having a separate board.

Issue 3: The Website for the West Virginia Board of Landscape Architects Needs Improvements to Enhance User-Friendliness and Transparency.

- The Board’s website is simple to navigate and understand, but could use some user-friendly features such as foreign language accessibility, a search tool, a help link, site functionality, a FAQ section, feedback options and mobile functionality.
- The Board’s website could benefit from additional transparency features such as the Board’s budget, the Board’s location, performance measures, an online complaint form, agency history and a calendar of events.

PERD’s Response to the Agencies’ Written Responses

The Board provided a written response on November 5, 2015. The Board’s response indicated disagreement with the recommendation that consideration be given to regulating landscape architects by registration rather than licensure. The Board made the following arguments:

- Regarding the lack of complaints received by the Board, most design professions have a low rate of disciplinary actions against licensees. This may indicate that licensure serves to protect the public by setting competency standards and preventing the practice by unqualified individuals, making complaints against licensees unnecessary. Most cases brought against design professionals in other states do not relate to incompetent practice. **PERD’s Response:** Registration would also serve to establish competency standards and prevent unregistered individuals from calling themselves registered landscape architects. Requiring landscape architects to be licensed rather than registered would provide no additional protection in this regard.

- The practice act for landscape architects, enacted in 2006, restricts the title of Landscape Architect and the practice of landscape architecture to licensees. It is important to public health, safety, and welfare that only those qualified and competent to practice landscape architecture should do so.

PERD's Response: As stated in the report, PERD agrees that only qualified individuals should be able to call themselves landscape architects. The current regulation fulfills this requirement and registration would continue to do so. However, although *W.Va. Code §30-22-2(a)* does state that only licensed individuals may practice landscape architecture, *W.Va. Code §30-22-22* provides a number of exemptions to this, including services provided by professional engineers; professional surveyors; foresters; nursery persons; agriculturists; horticulturists; gardeners; landscape designers; landscape contractors; graders; cultivators of land; garden or land caretakers; state, county, city, or other municipal, urban or regional planners and designers; and individual property owners. Given the number of exemptions to licensure requirements, the current regulation essentially provides little more than title protection anyway. Requiring registration rather than licensure could serve to provide the same amount of regulation with fewer administrative requirements.

- The Legislative Auditor's recommendation to continue requiring continuing education shows that there is a potential for harm to the public by not continuing the current regulatory process.

PERD's Response: Requiring continuing education as a condition of licensure provides no additional protection to the public than would requiring continuing education as a condition of registration.

- The Board is financially self-sufficient. Altering the form of regulation from licensure to registration would provide no discernible cost savings.

PERD's Response: The specific requirements for registered landscape architects would be determined by the Legislature and the board that regulates them (either the Board of Landscape Architects if it is continued, or the board that assumes that role if it is eliminated). However, there are options for registration that could serve to provide cost savings. For example, registrants could be required to hold Council of Landscape Architectural Registration Boards (CLARB) Council Records, which includes tracking of education, experience, exams, and licensure, so the regulating board could verify information through CLARB rather than having the administrative cost of performing verification directly.

The Board of Registration for Professional Engineers (PE Board) also provided a written response to Issue 1 of the report on November 16, 2015. In its response, the PE Board made the following arguments:

- The Board is failing to collect approximately \$18,900 per year in firm renewal fees. Collection of these fees would enable the Board to hire a part-time staff member to handle administrative functions of the board.

PERD's Response: The PE Board's estimates fail to take into account that sole proprietors are not required to hold Certificates of Authorization through the Board and most firms are sole proprietors. The PE Board's assertion that there is \$18,900 of uncollected revenue is incorrect.

- If the Board were to hire administrative staff, this would solve most of the deficiencies identified in the report. The PE Board would be willing to mentor board members and the Board's administrative personnel on how to comply with requirements.

PERD's Response: As stated above, there is no additional revenue available to the Board with which to hire administrative staff. Were the Board to hire part-time administrative personnel, this would not solve the problem of accessibility to the public. The additional costs of hiring staff and paying rent in order to provide a permanent physical location accessible to the public would likely deplete the Board's cash reserves and threaten the Board's financial self-sufficiency.

- No other states combine the regulation of Professional Engineers and Landscape Architects.

PERD's Response: As shown in Appendix C to the report, at least seven other states specifically combine the regulation of these professions.

- It would be more appropriate to combine the board with a smaller board such as the Board of Architects or the Board of Surveyors.

PERD's Response: Placing the regulation of landscape architects under another board would be a valid option; however, the PE Board has more administrative staff to handle the additional workload than the other boards considered. The Board of Professional Surveyors has a board administrator and one administrative assistant and the Board of Architects has an executive director. The PE Board has an executive director, a board administrator, and two administrative assistants.

- It would be an enormous expense to the PE Board to merge the boards, which would include the cost of developing a new database; changing the website; changing the PE Board's name on logos, stationary, and publications; legal work for statutory and rule changes; and other incidental costs.

PERD's Response: While there would be some expense involved in merging the two boards, it would not be as great as the PE Board indicates. The Board already has rules in place and the legal work for transferring these rules to the PE Board would be minimal, as would the task of transferring the Board's information from its existing website to the PE Board website. There would be no need to rename the PE Board, making alterations to stationary, logos, publications, and other items unnecessary. For example, when the regulation of athletic trainers was placed under the Board of Physical Therapy, the name of that board remained unchanged. The cash balances of the Board of Landscape Architects and the PE Board would be more than adequate to cover any cost associated with combining the boards.

ISSUE1

Regulation of Landscape Architects Is Necessary to Protect the Public, but Consideration Should Be Given to Regulation by Registration and Placing the Registration Function Under Another Board to Improve Its Operation and Public Accessibility.

Issue Summary

Landscape architecture is a technical field that presents risks of physical injury, property damage, and financial harm to the public if not performed competently. In a previous evaluation of the Board of Landscape Architects (Board) issued in 2003, the Legislative Auditor found that licensing landscape architects is necessary to protect the public. Regulation helps mitigate the risks by enabling the public to hire landscape architects who have met established education and experience requirements. The Legislative Auditor reaffirms the 2003 finding. However, the Board does not have staff or office space due in large part to the Board having a relatively small number of licensees (162). As a result, the Board is not in compliance with several statutory requirements and it is not accessible to the public. Therefore, the Legislature should consider placing the regulation of landscape architects under the control of another licensing board, such as the Board of Registration for Professional Engineers, and use registration as the form of regulation. Registration would not preclude others from performing the practice of landscape architecture, but it would establish title protection for those who are registered by the State. This form of regulation is appropriate given the relatively low number of complaints and that physical harm is not as common as monetary losses or property damage.

Landscape Architecture Presents a Potential Risk to the Public

The Board was established by the Legislature in 1971 prior to the State's Sunrise process. *West Virginia Code §30-22-4(m)* defines the practice of landscape architecture as the performance of professional services including the analysis, planning, design, and management of projects directed at the use of land and environments. These services include determining appropriate uses for land and water resources; conducting studies and criteria to lead the planning and management of land and water resources; the design of various land forms, conservation and erosion control methods, lighting, drainage and irrigation systems, plantings, and construction details; the preparation of construction documents, and other technical tasks.

West Virginia law also prohibits citizens, except those exempted by *W.Va. Code §30-22-22*, from practicing landscape architecture unless they are licensed by the Board. According to *W.Va. Code §30-22-2(a)*, it is unlawful for any person to “...*practice or offer to practice landscape architecture in this State without a license issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that the person is a licensed landscape architect, unless such person has been duly licensed under the provisions of this article.*” As stated above, the statute (*W. Va. §30-22-4(m)*) defines the scope of practice that can only be performed by a licensed landscape architect.

In order to become licensed in West Virginia an individual must either hold a bachelor degree in landscape architecture and at least 2 years of supervised experience, hold a graduate degree in landscape architecture and at least 1 year of supervised experience, or have completed at least 10 years of supervised experience in landscape architecture. New applicants must also pass a state examination as well as the Landscape Architect Registration Examination (LARE) prepared and scored by the Council of Landscape Architectural Registration Boards (CLARB).

PERD conducted an evaluation of the Board in June 2003. That review found that the regulation of landscape architects is in the public interest because it enables consumers to hire individuals who have attained a certain level of competency. This helps to protect against environmental and monetary damages, and physical harm resulting from work performed by unqualified individuals. The 2003 report provided the following examples of potential harm that could arise from professional misjudgment in performing landscape architecture:

- *Inadequate calculation and provision for storm water drainage can result in flooding and costly damage to buildings, walkways, highways, and public facilities.*
- *Failure to take into consideration the various environmental impacts when providing regional planning services can have serious consequences for water quality, fire prevention, beach and soil erosion, and storm water pollution.*
- *Specification of unsafe playground equipment or improper location of playground facilities can result in serious injury to children.*
- *Inappropriate specification and supervision of grading can result in landslides and massive erosion.*
- *Improperly designed retaining walls can cause physical injury upon collapse, as well as adverse environmental impact on the area.*
- *Improper design of outdoor lighting systems can present fire and electrical hazards.*

In order to become licensed in West Virginia an individual must either hold a bachelor degree in landscape architecture and at least 2 years of supervised experience, hold a graduate degree in landscape architecture and at least 1 year of supervised experience, or have completed at least 10 years of supervised experience in landscape architecture.

PERD conducted an evaluation of the Board in June 2003. That review found that the regulation of landscape architects is in the public interest because it enables consumers to hire individuals who have attained a certain level of competency. This helps to protect against environmental and monetary damages, and physical harm resulting from work performed by unqualified individuals.

- *Improperly specified relationships between water supplies and water drainage facilities can result in contamination of community water supply.*
- *Omitting accommodations for persons with disabilities can cause clients to be out of compliance with the Americans with Disabilities Act.*
- *Inadequate design of roads, pedestrian walkways, and parking areas can increase the occurrence of accidents.*
- *Malpractice in this area can have a domino effect on many aspects of community life-traffic congestion (leading to increased accident rate and air pollution), blighted areas, compromised pedestrian safety, and loss in economic vitality of the region.*
- *Poor layout of pedestrian, bicycle, and vehicular traffic in park and recreation areas can cause collisions and injuries.*
- *Poor management of growth can lead to the rapid decline of previously robust economic enclaves. This phenomenon is common as suburban life supplants town centers.*
- *Inadvisably choosing a site for a project that has an impact on wetlands or other environmentally sensitive areas can cause costly delays to projects, fines for the client, as well as irreversible environmental damage.*

The risk of harm resulting from improperly conducted landscape architecture is real and not remote.

The Legislative Auditor maintains that these are still potential risks and that the risk of harm resulting from improperly conducted landscape architecture is real and not remote. **Therefore, the Legislative Auditor recommends that regulation of this profession be continued.**

Legal Action Against Landscape Architects Provides Some Examples of Harm

Another method of determining the risk of harm to the public from a profession is to conduct a legal search of court cases against professionals. Although there is no database available for civil cases filed at the state's circuit court level, two cases were found in LexisNexis, which records cases that reach the West Virginia Supreme Court of Appeals. Neither of these cases involved damage resulting from landscape architecture. PERD also asked the Board to provide a statement detailing why it believes regulation of landscape architects is necessary. Rather than provide a statement, the Board directed PERD to two publications released by the American Society of Landscape Architects (ASLA) and the Council of Landscape Architectural Registration Boards (CLARB). The CLARB study addressed potential impacts of the practice of landscape architecture on public welfare, citing seven impacts landscape architecture projects have on public welfare, such as the enhancement of environmental sustainability and the promotion of public health and

well-being. The ASLA study, however, provided actual examples of physical injury, property damage, and financial harm resulting from a study by the American Society of Landscape Architects provided over 150 examples of landscape designs and services. Over 150 examples were provided of actual harm. In some instances the litigated landscape work was conducted by non-landscape architects. In other instances, work was performed by negligent landscape architects or individuals who otherwise violated related regulation laws. A few of these examples are:

- A lawsuit was filed against a landscape architect in Florida in 1998 when a homeowner was electrocuted adjusting a landscape light. His family alleged the landscape architect had improperly specified the lighting plan and been negligent in performing the inspection.
- A lawsuit was brought against the designer of a playground in Louisiana in 1996 who failed to specify a resilient surface under the equipment. This resulted in a child being rendered paraplegic from a fall.
- A landscape architect was sued in Georgia in 1997 when the negligent design of storm drainage caused large amounts of water to run into a street. A driver swerving to avoid the flow of water lost control, hit oncoming traffic, and suffered a spinal injury.
- A builder was sued in Colorado in 1986 when the landscape planning and site development failed to protect the house from natural water runoff from the hillside.
- An individual falsely presenting herself as a licensed landscape architect in Georgia in 2002 failed to correct a runoff problem during the construction of a golf course, causing extensive damage to a neighboring property and leading to a lawsuit.
- A landscape architect was sued in California in 1998 when a patio and driveway were negligently constructed causing cracks and drainage issues.
- A non-landscape architect was found liable for wrongful death in Texas in 1994 when a woman was killed as a result of obstructed views at an intersection. The plans for the intersection had originally been designed by a licensed landscape architect and would have provided an unobstructed view. The non-licensed individual altered the plans without permission, resulting in planting specifications that caused visibility impediments.

It is the Legislative Auditor's opinion that the greatest risk resulting from negligent or faulty landscape architecture is of financial or economic harm rather than physical harm.

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Sunset Reports of Other States Have Also Cited the Potential for Harm to the Public

A review of Sunset reports from other states found that Maryland, California, and Texas have all evaluated the continued need for regulation of landscape architects and concluded that regulation is necessary due to the potential for significant harm to the public. A Texas report pointed out that, although landscape architects often focus on the aesthetics of a space, they also design for safety and accessibility, which are ensured by regulation. A California report indicated that it is important that landscape architects meet minimum standards of competency created by regulation because their decisions and performance affect the health, safety, and welfare of the client, the public, and the environment. A Maryland report concluded that substandard design has the potential to harm consumers, their property and the environment. It is the Legislative Auditor's opinion that regulation creates competency standards for entry into the professional practice and makes disciplinary action a significant disincentive to substandard practice. Therefore, regulation of landscape architects protects the public and ensures that consumers of services are protected from unqualified or incompetent practitioners.

It is the Legislative Auditor's opinion that regulation creates competency standards for entry into the professional practice and makes disciplinary action a significant disincentive to substandard practice. Therefore, regulation of landscape architects protects the public and ensures that consumers of services are protected from unqualified or incompetent practitioners.

Placing the Regulatory Function of Landscape Architects Under Another Board Using a Less Restrictive Form of Regulation Should Be Considered

The Board currently regulates a relatively small number of licensees (162). Consequently, the Board cannot afford staff or its own office. The Board presently operates out of a board member's personal business and board members carry out the operating responsibilities. This has made the Board inaccessible to the public, and the lack of staff is a cause for it having several violations of Chapter 30 provisions as pointed out in Issue 2. The Legislative Auditor has consistently recommended to the Legislature that all boards should have a permanent office location. The Legislative Auditor recommends that the Legislature **consider eliminating the Board and placing the regulatory function of landscape architects under another board, such as the Board of Registration for Professional Engineers.** Few complaints are received by the Board and it has a relatively small number of licensees. Therefore, the renewal fees would cover the additional cost for an existing board to take on the regulatory function.

The Board presently operates out of a board member's personal business and board members carry out the operating responsibilities. This has made the Board inaccessible to the public, and the lack of staff is a cause for it having several violations of Chapter 30 provisions as pointed out in Issue 2.

Furthermore, consideration should also be given to imposing a less restrictive form of regulation such as registration. Under registration, individuals are required to show evidence of a specific credential in order to be placed on a registry. The registry would list those individuals who are registered by the State to perform the specified occupation. The law would not preclude others from performing the practice of landscape

architecture, but the use of the title “*registered landscape architect*” would be reserved for those registered by the State. The register of landscape architects could be placed online allowing consumers to identify competent individuals, which would reduce the risk of employing unqualified individuals.

If the Legislature chooses to do so, the board assuming regulation of landscape architecture should be increased by one member to represent landscape architects, and continuing education should be maintained. All 50 states regulate landscape architecture. Of the 49 other states, 37 define its regulation as licensure and 12 indicate registration. Stand-alone landscape architect boards exist in 24 states, and the remaining 25 states have combined boards in which landscape architecture is regulated along with other professions, usually some combination of architects, engineers, land surveyors, and interior designers. The regulation structures in each state are shown in Appendix C.

Conclusion

The practice of landscape architecture is technical and presents potential areas in which harm could occur physically, financially and environmentally. State regulation of landscape architects helps ensure that landscape architects practicing in West Virginia meet certain education and experience requirements designed to mitigate the risk of harm. Therefore, continued regulation of the profession is recommended. However, given the relatively small number of licensees, the low number of complaints, and the Board’s lack of public accessibility, consideration should be given to eliminating the Board and placing the regulatory function under another board. Also, because the Legislative Auditor considers the potential for harm to be primarily financial or environmental, it is the Legislative Auditor’s opinion that the legislature should consider regulation by registration with strictly title protection.

Recommendations

1. *The Legislative Auditor recommends that regulation of landscape architects be continued.*
2. *The Legislature should give consideration to eliminating the Board, placing regulation of landscape architects under another board, such as the Board of Registration for Professional Engineers, and imposing registration with title protection.*
3. *The Legislative Auditor recommends that if the Legislature places the regulation of landscape architects under the Board of*

Registration for Professional Engineers, the engineering board be increased by one member to represent landscape architects and continuing education be maintained.

Issue 2

The Board of Landscape Architects Needs to Improve Compliance With the Provisions of Chapter 30 of West Virginia Code.

Issue Summary

The Board is financially self-sufficient and has established continuing education requirements, however, the Board has not developed a procedural rule for handling complaints, does not maintain a register of applicants for licensure, or submit annual reports as required. Although the Board generally complies with requirements to file meeting notices and for the chairperson to annually attend the State Auditor's seminar, each of these requirements was violated once. Use of the State Treasurer's lockbox system and providing online license renewal would enhance internal controls and help mitigate the risk of fraud. The Board is not accessible to the public due to its physical location being within a board member's place of business. Many of the Board's deficiencies can be attributed to its lack of staff and could be corrected by placing regulation of landscape architects under the purview of another board as recommended in Issue 1 rather than having a separate board.

The Board is financially self-sufficient and has established continuing education requirements, however, the Board has not developed a procedural rule for handling complaints, does not maintain a register of applicants for licensure, or submit annual reports as required.

The Board Complies With Some of the General Provisions of Chapter 30

The Board is in satisfactory compliance with some of the provisions of Chapter 30 of *West Virginia Code*. These provisions are important for the effective operation of regulatory boards. The Board is in compliance with the following provisions:

- Each board member shall attend at least one orientation session during each term of office ((§30-1-2a(c)(3));
- The Board has adopted an official seal (§30-1-4);
- The Board meets at least once annually (§30-1-5(a));
- The Board's complaints are investigated and resolved with due process (§30-1-5(c)); (§30-1-8);
- The Board must be financially self-sufficient in carrying out its responsibilities (§30-1-6(c));
- The Board has established continuing education requirements (§30-1-7a);
- The roster has been prepared and maintained of all licensees that includes names, and office address (§30-1-13).

The Board is not in compliance with the following provisions:

- The Chair, the Executive Director, or the Chief Financial Officer did not attend an orientation session conducted by the State Auditor (§30-1-2a(c)(2));

- The Board has not promulgated rules specifying the investigation and resolution procedure of all complaints (§30-1-8(h));
- The Board has not submitted an annual report to the Governor and Legislature describing transactions for the preceding two years (§30-1-12(b));
- The Board is not publicly accessible as required by W.Va. Code §30-1-12(c); and
- The Board does not have a register of all applicants with the appropriate information specified in code, such as the date of application, name, age, education and other qualifications, place of residence, examination required, whether the license was granted or denied, any suspensions, etc. (§30-1-12(a)).

The Board maintains an end-of-year cash balance that is in excess of one year of expenditures.

The Board Is Financially Self-Sufficient

As shown in Table 1, the Board maintains an end-of-year cash balance that is in excess of one year of expenditures. *West Virginia Code* §30-1-6(c) requires regulatory boards to be self-sufficient. The Board is adhering to this section of Code. The Board's annual revenues are made up of licensing fees, such as application, renewal, and examination fees. The Board's annual disbursements consist of board member travel, telecommunications, professional organization membership dues, BRIM premiums, and other operating expenses.

Fiscal Year	Beginning Cash Balance	Net Revenue	Disbursements	Ending Cash Balance
FY 2012	\$25,649	\$17,730	\$8,654	\$34,725
FY 2013	\$34,725	\$11,045	\$10,239	\$35,531
FY 2014	\$35,531	\$12,560	\$9,077	\$39,014
Average	\$31,968	\$13,778	\$9,323	\$35,128

Source: State Auditor's Office data as compiled in the Digest of Revenue Sources in West Virginia, FY 2012-2014

Table 2 provides the fee schedules for similar boards in the surrounding states. As the table shows, fees fall in a wide range, with Kentucky charging up to \$300 and Ohio charging only \$50 for initial licensure. West Virginia has the third highest fees for individuals.

Table 2 Landscape Architect Licensure Fees for West Virginia and Surrounding States					
State	Individuals		Firms		Renewal Cycle
	Initial Licensure Fee	Renewal Fee	Initial Licensure Fee	Renewal Fee	
Kentucky	\$250	\$200	N/A	N/A	Annual
Maryland	\$111	\$76	\$100	\$100	Biennial
Ohio	\$50	\$125	\$125	\$100	Biennial
Pennsylvania	\$60	\$194	N/A	N/A	Biennial
Virginia	\$125	\$110	\$100	\$50	Biennial
West Virginia	\$100	\$100	\$20 Sole Proprietor/ \$150 Firm with multiple licensed landscape architects	\$15/\$150	Annual

Sources: State licensure board websites and statutes.

The Board Promptly Resolved the One Complaint Received in the Last Three Years

According to *West Virginia Code §30-1-5(c)*, each Chapter 30 board is required to close a complaint within 18 months of the initial filing. The Board does not receive many complaints. The one complaint received by the Board in the past three years was regarding the illegal use of the landscape architecture title. The Board resolved the complaint in 58 days by sending a cease-and-desist order to the entity illegally advertising itself as providing landscape architecture services.

The Board promptly resolved the one complaint it received in the past three years.

The Board Has Established Continuing Education Requirements

The Board has established continuing education requirements for licensees by legislative rule. Table 3 provides the continuing education requirements for landscape architects in West Virginia and surrounding states.

Table 3
Continuing Education Requirements for Licensed Landscape Architects
In Surrounding States

State	CE Hours	Renewal Period
Kentucky	15	Annual
Maryland	24	Biennial
Ohio	24	Biennial
Pennsylvania	24	Biennial
Virginia	16	Biennial
West Virginia	8	Annual

Sources: Each state's licensing board website and regulations.

The Board requires licensees to submit a list of their continuing education credits at the time of their annual license renewal. Ten (10) percent of licensees are randomly selected to submit verification of their credits. No license has had to be denied because of failure to meet continuing education requirements.

Although There Are Deficiencies in the Board's Internal Controls, the Risk of Inappropriate Use of Resources Is Relatively Low

The Board does not have any employees. All office tasks are conducted by board members and occasionally the chairperson's business office staff. The Board pays the accounting section of the Division of Finance (Finance) to deposit Board revenues and pay out expenditures. The fees charged for this service range from \$25-\$125 per month, depending on the number of transactions the Board requires for the month. Application fees are received at the Board office by the chairperson, who copies the checks and mails them to Finance. Renewal fees are received by the Board Secretary, who copies the checks and mails them to Finance. The staff person in charge of revenues at Finance inputs the payment information into the OASIS system, then the information is approved by another employee.

The Board has no purchasing card and board members do not have direct access to the Board's finances for expenditures. When the Board needs to make expenditures, the board member requesting payment submits a request form and supporting documentation to Finance. The Finance staff person in charge of expenditures processes the information and the payment is approved by another employee.

The Board does not have any employees. All office tasks are conducted by board members and occasionally the chairperson's business office staff.

The Board has no purchasing card and board members do not have direct access to the Board's finances for expenditures.

While the use of Finance’s processing services provides a degree of protection against fraud, especially in the area of expenditures, improvements in controls over revenue collection could be made. The State Treasurer’s Office provides a lockbox operation whereby remittances can be picked up from a post office box, opened and sorted, imaged, deposited, and the information forwarded to the Board by the Treasurer’s Office for a fee. Use of the lockbox operation helps to mitigate the risk of fraud and is beneficial to boards with little or no staff to handle such procedures, therefore, **the Legislative Auditor recommends that the Board use the State Treasurer’s Office lockbox system.**

The Board currently processes paper renewals, but has looked into implementing online renewals. The chairperson indicated that the state contract with the company that would develop the online renewal system for the Board expired, which has delayed the project. The Board hopes to have online renewals available for the 2016 renewal cycle. Online processing of renewal payments will further strengthen the Board’s controls. **The Legislative Auditor commends the Board for making efforts to provide online renewal and recommends that the system be implemented as soon as possible.**

In order to assess the risk of fraud and gain a reasonable assurance that fraud has not occurred, PERD examined the Board’s revenue and expenditures. For revenue, PERD calculated the minimum expected revenue for the Board by multiplying annual fees by the number of licensees for FY 2012-2014. Table 4 provides a comparison of actual and expected revenues for the Board. The actual revenues in FY 2012 were considerably higher than expected due to a large number of deposits at the beginning of the year from the previous year. Actual revenues in FY 2013 and 2014 were slightly less than expected because of revenues from those years being posted in July of the following year. Therefore, the likelihood of fraud having occurred on the revenue side is deemed relatively low.

While the use of Finance’s processing services provides a degree of protection against fraud, especially in the area of expenditures, improvements in controls over revenue collection could be made.

PERD assessed the risk and found that the likelihood of fraud having occurred on either the revenue or expenditure side is relatively low.

Fiscal Year	Expected Revenues	Actual Revenues
2012	\$11,590	\$17,730
2013	\$12,190	\$11,045
2014	\$12,690	\$12,560

Sources: PERD calculations based on the Board’s roster and fees, State Auditor’s Office data as compiled in the Digest of Revenue Sources in West Virginia, FY 2012-2014.

PERD also assessed the risk of fraud on the expenditure side. PERD evaluated the Board’s expenditures for FY 2012-2014 and,

as shown in Table 5, determined that over 90 percent of the Board's expenses consisted of expected or required expenditures to expected vendors. The Legislative Auditor's opinion is that when the Board's required expenditures are 90 percent or more of the Board's total annual expenditures, the likelihood of fraud having occurred on the expenditure side is relatively low.

Fiscal Year	Percent
2012	94
2013	92
2014	95

Source: PERD calculations based on State Auditor's Office data.

Although the Board typically complies, both the requirement that the chairperson attend the State Auditor's seminar annually and the requirement that meeting notices be filed with the Secretary of State were violated once in the past three years.

The Board Chairperson Has Not Attended Every Annual Orientation Session

West Virginia Code §30-1-2a(c)(2) requires the chairperson, executive director, or chief financial officer of every board to annually attend a seminar provided by the State Auditor. The Board does not have an executive director or chief financial officer. The chairperson has typically attended the Auditor's seminar, but failed to do so in 2014. In order to comply with Code and ensure that the chairperson is familiar with the various duties and requirements to which the Board is subject, **the Board chairperson needs to attend the required seminar every year.**

The Board Has Not Always Complied With the Open Governmental Proceedings Act

West Virginia Code §6-9A-3(e) requires state entities to file meeting notices for publication on the Secretary of State's website. Although the Board generally complies with this requirement, notice was not filed for the May 2014 meeting of the Board. In order to comply with Code and conduct Board business transparently, **the Board needs to always file notice of meetings with the Secretary of State for publication on the Secretary of State's website.**

The Board Has Not Promulgated Rules Specifying Procedures for the Investigation and Resolution of Complaints

West Virginia Code §30-1-8(k) requires regulatory boards to adopt procedural rules specifying the procedures for the investigation and resolution of complaints against licensees. PERD pointed out in its 2003 audit of the Board that it had not adopted such a rule, and it still has not done so. Although the Board does not receive many complaints, it is important that an official process be in place for handling complaints when they are received. Therefore **the Board needs to comply with Code by promulgating a procedural rule for the investigation and resolution of complaints.**

The Board Does Not Have a Register of Applicants

West Virginia Code §30-1-12(a) requires that all boards maintain a register of all applicants for licensure showing:

- the date of application;
- the applicant's name, age, educational and other qualifications, and place of residence;
- whether an examination was required;
- whether the applicant was rejected or granted a license and the date this action occurred;
- the license number;
- all renewals of the license; and
- any suspension or revocation of the license.

The Board was unable to provide this information, therefore, **the Board needs to maintain a register of applicants for licensure with all required information as mandated by *West Virginia Code §30-1-12(a)*.**

The Board Does Not Submit Annual Reports

West Virginia Code §30-1-12(b) requires all boards to submit annual reports to the Governor and Legislature providing:

transactions for the preceding two years, an itemized statement of its receipts and disbursements for that period, a full list of the names of all persons licensed or registered by it during that period, statistical reports by county of practice, by specialty if appropriate to the particular profession, and a list of any complaints which were filed

The Board has not promulgated a complaint rule, does not maintain a register of applicants, and does not submit annual reports.

against persons licensed by the board, including any action taken by the board regarding those complaints.

The Board has not submitted any annual reports, therefore, **the Board needs to comply with *West Virginia Code §30-1-12(b)* and begin submitting annual reports as required.**

The Board Is Not Accessible to the Public

West Virginia Code §30-1-12(c) charges boards with promoting public access. The Board provides numerous methods of contact, including placing the Board's contact information in the Charleston phone directory and having a toll-free telephone number, facsimile number, email contacts for the Board, and a website. However, the Board's public access is hampered because it does not have a permanent physical location. The Board office is currently located at the chairperson's place of business and there is no signage at that location to indicate to the public that the Board is located there. The Legislative Auditor has pointed out in reviews of other boards that the lack of a permanent physical location and location within a board members' place of business are detriments to public access. **The Legislative Auditor recommends the Legislature consider a change in *West Virginia Code* to require that every board maintain a permanent public office to conduct board business.**

The Board office is currently located at the chairperson's place of business.

Conclusion

Chapter 30 of *West Virginia Code* provides general requirements that all licensing boards are expected to meet. Although the Board is in compliance with some of these requirements, there are several deficiencies. Some of these deficiencies could stem from the Board's lack of staff and the fact that board administrative tasks are performed by board members. Placing regulation of landscape architects under another licensing board as recommended in Issue 1 of this report would likely address the compliance issues identified here.

The Legislative Auditor has pointed out in reviews of other boards that the lack of a permanent physical location and location within a board members' place of business are detriments to public access.

Recommendations

4. *The Legislative Auditor recommends that the Board use the State Treasurer's Office lockbox system.*
5. *The Legislative Auditor recommends that the Board implement an online renewal system.*
6. *The Board chairperson should attend the seminar required by *West Virginia Code §30-1-2a(c)(2)* every year.*

7. *The Board should always file notice of meetings with the Secretary of State for publication on the Secretary of State's website.*
8. *The Board should comply with West Virginia Code §30-1-8(k) by promulgating a procedural rule for the investigation and resolution of complaints.*
9. *The Board should maintain a register of applicants for licensure with all required information as mandated by West Virginia Code §30-1-12(a).*
10. *The Board should begin submitting annual reports as required by West Virginia Code §30-1-12(b).*
11. *The Legislative Auditor recommends the Legislature consider a change in West Virginia Code to require that every board maintain a permanent public office to conduct board business.*

Issue 3

The Website for the West Virginia Board of Landscape Architects Needs Improvements to Enhance User-Friendliness and Transparency.

Issue Summary

The Office of the Legislative Auditor conducted a literature review on assessments of governmental websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix D). The assessment tool lists several website elements. Some elements should be included in every website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for some state agencies. Table 6 indicates the Board integrates 38 percent of the checklist items in its website. The measure shows that the Board needs to make more improvements in user-friendliness and transparency of its website.

Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
	38%		

Source: The Legislative Auditor’s review of the West Virginia Board of Landscape Architects website as of April 8, 2015.

The Board’s Website Scores Relatively Low in User-Friendliness and Transparency

In order to actively engage with the agency online, citizens must first be able to access and comprehend the information on government websites. Therefore, government websites should be designed to be user-friendly. A user-friendly website is understandable and easy to navigate from page to page. Government websites should also provide transparency of an agency’s operation to promote accountability and trust.

Government websites should be designed to be user-friendly and transparent.

The Legislative Auditor reviewed the Board’s website for both user-friendliness and transparency. As illustrated below in Table 7, the website requires improvement to increase its user-friendliness and transparency. **The Board should consider making website improvements to provide a better online experience for the public and for its licensees.**

Table 7
Website Evaluation Score

Category	Possible Points	Agency Points	Percentage
User-Friendly	18	6	33%
Transparency	32	13	41%
Total	50	19	38%

Source: The Legislative Auditor's review of the Board's website as of April 8, 2015.

The Board's Website Is Navigable But Needs Additional User-Friendly Features

The Board's website is easy to navigate and, according to the Flesch-Kincaid Test for readability, is written on an average 7th grade reading level, making it easily understood.

User-Friendly Considerations

The following are a few attributes that could lead to a more user-friendly website:

- **Search Tool**- A search box, preferably on every page.
- **Help Link**- A link that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")
- **Foreign Language Accessibility**- A link to translate all web pages into languages other than English.
- **Site Functionality**- The website should include buttons to adjust the font size.
- **Mobile Functionality**- The agency's website is available in a mobile version and/or the agency has created mobile applications (apps).
- **FAQ Section**- A page that lists the Board's most frequent asked questions and responses.
- **Feedback Options**- A page where users can voluntarily submit feedback about the website or particular section of the website.
- **Online Survey/Poll**- A short survey that pops up and requests users to evaluate the website.

The Board's website is easy to navigate and is easily understood, however the addition of several attributes would enhance user-friendliness.

- **Social Media Links**- The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.
- **RSS Feed**- RSS stands for "Really Simple Syndication" and allows for subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.

The Website Has Some Transparency Features But Improvements Can Be Made

A website that is transparent should promote accountability and provide information for citizens about what the agency is doing, as well as encouraging public participation. The Board's website has 41 percent of the core elements that are necessary for a general understanding of the Board's mission and performance. The Board's website contains important transparency features such as email contact information, the agency's phone number, and public records such as statutes, rules, and meeting minutes.

Transparency Considerations

The Board should consider providing additional elements to the website to improve the Board's transparency. The following are a few attributes that could be beneficial to the Board in increasing its transparency:

- **Location of Agency Headquarters**- The agency's contact page should include an embedded map that shows the agency's location.
- **Administrator's Biography**- A biography explaining the administrator's professional qualifications and experience.
- **Complaint Form**- A specific page that contains a form to file a complaint, preferably an online form.
- **Budget**- Budget data available at the checkbook level and ideally in a searchable database.
- **Calendar of Events**- Information on events, meetings, etc., ideally imbedded using a calendar program.
- **FOIA information**- Information on how to submit a FOIA request, ideally with an online submission form.

The Board's website has 41 percent of the core elements that are necessary for a general understanding of the Board's mission and performance.

The Board should consider providing additional elements to the website to improve the Board's transparency.

- **Performance measures, goals and outcomes-** A page linked to the homepage explaining the agency's performance, goals, measures and outcomes.
- **Website Updates-** The website should have a website update status on screen and ideally for every page.

Conclusion

The Legislative Auditor finds that improvements are needed in the areas of user-friendliness and transparency to the Board's website. The website can benefit from incorporating several common features. The Board has pertinent public information on its website including its mission statement, rules and regulations, and a roster of its licensees. The Board's contact information is also provided, as are downloadable publications such as application forms. However, providing website users with additional elements and capabilities, as suggested in the report, would greatly improve user-friendliness and transparency.

Recommendation

12. *The Legislative Auditor recommends that the Board enhance the user-friendliness and transparency of its website by incorporating more of the website elements identified.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

October 28, 2015

Michael Biafore, Chairman
West Virginia State Board of Landscape Architects
522 Ashebrooke Square
Morgantown, WV 26508

Dear Mr. Biafore:

This is to transmit a draft copy of the Regulatory Board Review of the West Virginia Board of Landscape Architects. This report is tentatively scheduled to be presented during the November 15-16, 2015 interim meetings of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need to schedule a telephone exit conference to discuss any concerns you may have with the report. We would like to have the meeting on October 29 - November 2, 2015. Please contact us to schedule an exact time. In addition, we need your written response by noon on Thursday, November 5, 2015 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, November 12, 2015 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,


John Sylvia

Enclosure

_____ *Joint Committee on Government and Finance* _____

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
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John Sylvia
Director

October 28, 2015

Lesley L. Rosier-Tabor, Executive Director
West Virginia State Board of Registration
for Professional Engineers
300 Capitol Street - Suite 910
Charleston, West Virginia 25301

Dear Ms. Tosier-Tabor:

This is to transmit a draft copy of the Regulatory Board Review of the West Virginia Board of Landscape Architects. Issue 1 of this report recommends that the Legislature consider eliminating the Board of Landscape Architects and placing regulation of landscape architects under another board, such as the Board of Registration for Professional Engineers. This report is tentatively scheduled to be presented during the November 15-16, 2015 interim meetings of the Joint Committee on Government Operations and the Joint Committee on Government Organization. If a representative from your agency would like to be present at the meeting to orally respond to this issue and answer any questions committee members may have during or after the meeting, you may do so. We will notify you of the exact time and location of the meeting when that information becomes available. If your agency intends to distribute material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, November 12, 2015 to make arrangements.

If you would like to schedule a teleconference to discuss any concerns you may have with this issue, please contact Brandon Burton, Acting Research Manager, or Tina Baker, Research Analyst, at 304-347-4890 by noon on Friday, October 30, 2015. If you would like to provide a written response for inclusion in the final report, please provide it by noon on Thursday, November 5, 2015.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "John Sylvia".

John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B

Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the West Virginia State Board of Landscape Architects (Board) as required and authorized by Chapter 4, Article 10, of the *West Virginia Code*. The purpose of the Board, as established in *West Virginia Code §30-22*, is to protect the public through its governing body, and be the regulatory and disciplinary body for landscape architects throughout the state.

Objectives

The objectives of this review are to determine if the Board should be continued, consolidated or terminated, and if conditions warrant a change in the degree of regulation. In addition, this review is intended to assess the Board's compliance with the general provisions of Chapter 30, Article 1 of the *West Virginia Code*, the Board's enabling statute (*West Virginia Code §30-22*), and other applicable rules and laws, such as the Open Governmental Proceedings Act (*West Virginia Code §6-9A*) and purchasing requirements. Finally, it is also the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The scope of the audit covers fiscal years 2012-2014. The evaluation included a review of the Board's internal controls, Legislative rules, policies and procedures, meeting minutes, complaint files, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures, and continuing education requirements. The scope also included a review of the Board's website as of April 8, 2015.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

PERD staff visited the Board's office and met with its chairperson. Testimonial evidence gathered for this review through interviews with the Board's chair was confirmed by written statements and in some cases by corroborating evidence. PERD collected and analyzed the Board's complaint file, meeting minutes, budget information, procedures for investigating and resolving complaints, and continuing education. PERD also obtained information regarding the licensure and continuing education requirements from equivalent boards in Kentucky, Maryland, Ohio, Virginia and Pennsylvania. This information was assessed against statutory requirements in *West Virginia Code* as well as the Board's enabling statute to determine the Board's compliance with such laws. Some information was also used as supporting evidence to determine the sufficiency and appropriateness of the overall evidence.

The Legislative Auditor compared the Board's actual revenues to expected revenues in order to assess the risk of fraud, and to obtain reasonable assurance that revenue figures were sufficient and appropriate. Expected revenues were approximated by applying license fees to the number of licensees for the period of fiscal years 2012-2014. The Legislative Auditor found that the expected revenue was higher than the actual

revenue in 2013 and 2014. An analysis of Board deposits showed that this was due to a large number of deposits being made at the beginning of the next fiscal year. Therefore, our evaluation of expected and actual revenues allowed us to conclude that the risk of fraud on the revenue side was at a reasonable level and would not affect the audit objectives, and actual revenues were sufficient and appropriate.

The Legislative Auditor also tested the Board's expenditures for fiscal year 2012-2014 to assess risk of fraud on the expenditure side. The test involved determining if expected expenditures were at least 90 percent of total expenditures. Expected expenditures are such items as salaries and benefits, travel reimbursement, office rent, utilities and several other spending categories. The Legislative Auditor determined that during the scope of the review, expected expenses were 90 percent of total expenditures. This percentage gave reasonable assurance that the risk of fraud on the expenditure side was not significant enough to affect the audit objectives.

In order to determine the potential for harm resulting from the practice of landscape architecture, the Legislative Auditor requested Legislative Services conduct a search of Lexis Nexis; performed a search of The West Virginia Record, a legal newspaper; reviewed Sunset reports issued by other states; and requested examples of harm from the Board.

In order to evaluate state agency websites, the Legislative Auditor conducted a literature review of government website studies, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites in order to establish a master list of essential website elements. The Brookings Institute's "2008 State and Federal E-Government in the United States" and the Rutgers University's 2008 "U.S. States E-Governance Survey (2008): An Assessment of State Websites" helped identify the top ranked states in regards to e-government. The Legislative Auditor identified three states (Indiana, Maine and Massachusetts) that were ranked in the top 10 in both studies and reviewed all 3 states' main portals for trends and common elements in transparency and open government. The Legislative Auditor also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be considered for state websites to increase their transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because some of the technology may not be practical or useful for some state agencies. Therefore, the Legislative Auditor compared the Board's website to the established criteria for user-friendliness and transparency so that the Board can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C

Regulation of Landscape Architecture by State

Regulation of Landscape Architecture by State		
State	Type of Regulation	Type of Board
Alabama	License	Stand alone
Alaska	Registration	Umbrella – Alaska State Board of Registration for Architects, Engineers and Land Surveyors
Arizona	Registration	Umbrella – Board of Technical Registration
Arkansas	License	Umbrella – Board of Architects, Landscape Architects, and Interior Designers
California	License	Umbrella – Landscape Architects Technical Committee, California Architects Board
Colorado	License	Stand alone
Connecticut	License	Stand alone
Delaware	License	Stand alone
District of Columbia	N/A	N/A
Florida	License	Stand alone
Georgia	License	Stand Alone
Hawaii	License	Umbrella – Board of Professional Engineers, Architects, Surveyors, and Landscape Architects
Idaho	License	Stand alone
Illinois	License	Stand alone
Indiana	Registration	Umbrella – State Board of Registration for Architects and Landscape Architects
Iowa	Registration	Stand alone within Bureau
Kansas	License	Umbrella – State Board of Technical Professionals
Kentucky	License	Stand alone
Louisiana	License	Umbrella – Horticulture Commission
Maine	License	Umbrella – Board for Licensure of Architects, Landscape Architects and Interior Designers
Maryland	License	Stand alone
Massachusetts	License	Stand alone
Michigan	License	Umbrella – Department of Licensing and Regulatory Affairs
Minnesota	License	Umbrella – Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design
Mississippi	License	Umbrella – State Board of Architecture, Landscape Architecture Advisory Committee

Missouri	License	Umbrella – Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects
Montana	License	Umbrella – Board of Architects and Landscape Architects
Nebraska	License	Stand alone
Nevada	Registration	Stand alone
New Hampshire	License	Stand alone
New Jersey	License	Umbrella – Board of Architects
New Mexico	License	Stand alone
New York	License	Stand alone advisory board – Education Department, State Board for Landscape Architecture
North Carolina	Registration	Stand alone
North Dakota	License	Umbrella – Board of Architecture
Ohio	License	Stand alone board (combined budget and staff with Architects Board)
Oklahoma	License	Umbrella – Board of Architects, Landscape Architects, and Registered Interior Designers
Oregon	Registration	Stand alone
Pennsylvania	Registration	Stand alone
Rhode Island	Registration	Stand alone
South Carolina	License	Stand alone
South Dakota	License	Umbrella – Board of Technical Professions
Tennessee	Registration	Umbrella – Board of Architectural and Engineering Examiners
Texas	Registration	Umbrella – Board of Architectural Examiners
Utah	License	Stand alone
Vermont	License	Umbrella – Office of Professional Regulation
Virginia	License	Umbrella – Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
Washington	License	Stand alone
Wisconsin	Registration	Umbrella – Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors
Wyoming	License	Umbrella – Board of Architects and Landscape Architects

Appendix D

Website Criteria Checklist and Points System

Board of Landscape Architects			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	6
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	0 points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	1 point
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 points
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	2 points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1 points

Board of Landscape Architects			
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	0 points
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 points
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	0 points
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	0 points
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0 points
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	0 points
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	13
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1 point
Physical Address	General address of stage agency.	1 point	1 point

Board of Landscape Architects			
Phone Number	Correct phone number of state agency.	1 point	1 point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	0 points
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	2 points
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 points
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	1 point
Public Records	The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points: <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licensees • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	0 points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1 point
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	0 point

Board of Landscape Architects			
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2 points
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/ organizational chart (1).	2 points	1 point
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	0 points
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 points
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 points
Performance measures/ outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 points
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	1 point
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 points

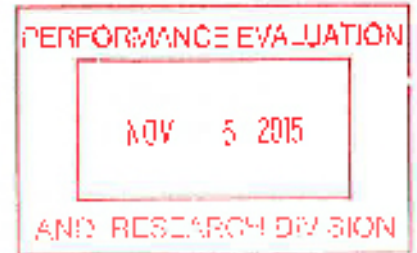
Appendix E

Agency Responses



STATE BOARD OF LANDSCAPE ARCHITECTS

524 Ahlbrecker Square, Morgantown, WV 26509
ph: (304) 226-1273 fax: (304) 294-1482



Date: November 5, 2015

Legislative Auditor's Office
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East

To whom it may concern:

The West Virginia State Board of Landscape Architects would like to respond to the Legislative Auditor's Office in regard to the recommendation that regulation of landscape architects in the state be changed from professional licensing to registration.

Regarding the position that our lack of complaints against licensees predicated a lack of necessity for professional licensing, most design professions generally have low rates of disciplinary cases compared to other professional groups, such as healthcare professionals. This may indicate that the actual establishment of licensure serves as an adequate protection of the public health, safety, and welfare so that additional regulatory measures are usually unnecessary. By setting competency requirements to the profession and ensuring that unqualified individuals do not practice, the state ensures that the public is protected. For further information on this, see the attachment of examples of individual state's data on disciplinary action of design professionals.

Within the design professions, including landscape architects, architects, and engineers, there is a comparable rate of disciplinary action as a percentage of total licensee population. Further, a significant portion of the cases brought against design professionals do not relate to incompetent practice. Instead, the vast majority of cases relate to lapsed practice (a licensee letting their license lapse and continuing to practice before the license is renewed but without any indication of dangerous practice), failure to meet continuing education requirements, and failure to pay taxes or child support.

In order to be licensed as a landscape architect throughout the United States, candidates must complete a degree in landscape architecture from an accredited college or university, successfully complete the LARE (Landscape Architect's Registration Exam) and complete a required number of years working under the direct supervision a licensed landscape architect (2 years in WV). This process helps to ensure that the public's health, safety and welfare are protected by persons practicing the profession.

On 1 July 2006, the practice act for landscape architects was enacted, thus restricting not only the use of the title "Landscape Architect", but also the practice of landscape architecture to persons holding a valid WV landscape architect's license. This was done to ensure that all new landscape architects meet minimum standards of competency. For example, unsafe site circulation, substandard grading and drainage, and a failure to follow requirements established by the Americans With Disabilities Act (A.D.A.) are real threats. The public benefits from the expectation that those who call themselves landscape architects have the knowledge, skills and abilities to protect public health, safety, and welfare. The scope of landscape architecture impacts the public health, safety, and welfare, making it critical that only those qualified and competent to practice – as demonstrated through licensure – should practice landscape architecture. Continued regulation is necessary to protect the public, including those who use spaces designed by landscape architects and clients of the landscape architecture profession. Because of these facts, it would be regressive to consider downgrading the law.

The auditor's report recommends maintaining continuing education requirements. Landscape architecture, like other professions, is based on a body of knowledge, combined with practical experience and, with the continuous advancement of technology, is "portable" to other geographic settings. This both fulfills marketplace needs and encourages the exchange of new thinking and creative approaches that enhance health, safety, and welfare. Continuing education requirements ensure that practitioners keep current with changes and advancements in safety and design of landscapes thus protecting the public and clients. The recommendation to continue mandatory continuing education along with these facts reinforce the potential for harm to the public by not continuing the current process of regulating landscape architects.

The West Virginia State Board of Landscape Architects is financially self-sufficient with the costs of regulation, testing, licensing, renewals, continuing education monitoring, and administration covered by those who are regulated. There would be no discernable cost savings realized by switching the form of regulation of landscape architects from professional licensing to registration.

Please consider these facts and recommendations and know that our current board members feel that it is imperative to maintain the current process of licensing landscape architects within the state.

Sincerely,

**West Virginia State
Board of Landscape Architects**

Michael R. Biafore, PLA, ASLA
Board Chair

John Rudmann, PLA, PE, LEED AP
Board Treasurer

Jason Testman, PLA
Board Secretary

Examples of Disciplinary Rates of Other States

Indiana

The board reports disciplinary actions taken by the multidisciplinary board, the Indiana State Board of Registration for Architects and Landscape Architects. The rate of disciplinary action shows that the two professions are similar. The board took action against 13 individuals between January 2012 and April 2013:

- 1 case involved a landscape architect (or 0.025% of the 405 licensees)
- 12 cases involved architects (or 0.036% of the 3,374 licensees)

Kansas

The board reports disciplinary actions taken by the multidisciplinary board, the Kansas Board of Technical Professions. The rate of disciplinary action shows that the professions are similar. The board took action against 33 individuals between January 2011 and April 2013:

- 2 cases involved landscape architects (or 0.53% of 377 licensees)
- 8 cases involved architects (or 0.28% of the 2,728 licensees)
- 11 cases involved professional engineers (or 0.10% of 10,826 licensees)
- 11 cases involved land surveyors (or 1.46% of the 755 licensees)

Maine

The Maine Board for Licensure of Architects, Landscape Architects, and Interior Designers took action against 10 individuals between January 2000 and March 2013, consisting of actions against 1 landscape architect (or 0.53% of 188 licensees) and 9 architects (or 0.58% of the 1,561 licensees). No actions were taken against interior designers. Maine is one of three states that only regulate the title 'landscape architect' and do not regulate the practice of landscape architecture.

Minnesota

Between 2010-2012, the Minnesota Board of Architecture, Engineering, Landscape Architecture, Land Surveying, Geoscience and Interior Design took action against 1 landscape architect (or 0.25% of 400 licensees), 14 architects (or 0.43% of 3,266 licensees), and 26 engineers (or 0.21% of 12,185 licensees).

Missouri

The board provides details regarding both the complaints and the disciplinary actions taken by the multidisciplinary board, the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. The rate of disciplinary actions between 2008-2011 shows that the design professions are similar:

- 16 cases involved landscape architects (or 4.92% of the 325 licensees)
- 119 cases involved architects (or 2.89% of 4,117 licensees)
- 155 cases involved engineers (or 1.04% of 14,856 licensees)
- Total complaints: 290 (or 1.47% of 19,897 licensees)

New York

There were a total of 318 disciplinary actions taken against landscape architects, architects, and engineers by their respective licensure boards between January 1994 through December 2012, an average of 17 actions per year for 43,894 licensees (0.038%). Further, when non-practice issues have been removed from the disciplinary actions (DUI, violent crime, child support enforcement, etc.), a total of 214 disciplinary issues remain, averaging 11 actions per year

(0.025%). The boards acted to revoke only 46 licensees, with a fraction of these (17) for malpractice. As a percentage of total licensee population for each discipline (based upon 2013 rosters), the following demonstrates that there is a comparably low rate of disciplinary action among the design professions:

Disciplinary actions related to the practice of the professions (excludes non-practice issues)

- I 3 landscape architects were disciplined (or 0.28% of the 1,162 licensees)
- L 108 architects were disciplined (or 0.65% of 16,256 licensees)
- F 105 engineers were disciplined (or 0.40% of 25,576 licensees)
- I Total actions: 201 (or 0.50% of 42,994 licensees)

All Disciplinary Actions:

- F 5 landscape architects were disciplined (or 0.43% of the 1,162 licensees)
- I 144 architects were disciplined (or 0.89% of 16,256 licensees)
- L 165 engineers were disciplined (or 0.65% of 25,576 licensees)
- I Total actions: 280 (or 0.73% of 42,994 licensees)

New York Landscape Architect Disciplinary Actions (1994-2011)

Disciplinary issue. Action taken

- Licensee admitted to charges of placing his seal on a landscape plan which he did not prepare and retaining a written evaluation of the professional services represented by the plan: \$500 fine, probation 1 year.
- L Licensee admitted to charges of a conviction of three counts of violating Federal Law for filing false tax returns: 1 year suspension - execution of last 6 months of suspension stayed, probation 2 years
- L Licensee does not contest charge of negligence on more than one occasion by preparing two preliminary landscape plans with errors: Censure and Reprimand, \$1,000 fine.
- L DUI. Application for consent order granted; Penalty agreed upon: 6 month suspension following the aforesaid suspension, probation 2 years, \$1,000 fine.
- L Licensee admitted to charge of preparing drawings for submissions on building permits that he was not entitled to do. Application for consent order granted; Penalty agreed upon: 2 year suspension, execution of suspension stayed, probation 2 years, \$1,000 fine.

California

California also provides detailed information from recent enforcement actions. As the state with the largest population of landscape architect licensees, it provides a good example of the role of landscape architect licensing in protecting the public health, safety, and welfare. From 2008-2010, there were 17 violations that resulted in enforcement actions.

F.B. - On July 22, 2009, the LATC issued an administrative citation that included a \$1,000 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5841, Chapter Exceptions, Exemptions. The citation became final on August 24, 2009.

A.B. - On May 23, 2008, the LATC issued an administrative citation that included a \$500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5841, Chapter Exceptions, Exemptions. The citation became final on June 24, 2008.

M. C. - On February 4, 2010, the LATC issued an administrative citation that included a \$500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice,

Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on March 4, 2010.

S. C. - On February 29, 2008, the LATC issued an administrative citation that included a \$1,000 civil penalty (two cases) for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on March 29, 2008.

D.G. - On April 19, 2007, the LATC issued an administrative citation that included a \$1,500 civil penalty for alleged violations of BPC sections 5616, Landscape Architecture Contract - Contents, Notice Requirements, 5659, Inclusion of License Number - Requirement and 5671, Negligence, Willful Misconduct in Practice. The citation became final on May 19, 2007. Don Craig paid the administrative fine on June 14, 2007, satisfying the citation.

T. D. - On March 5, 2008, the LATC issued an administrative citation that included a \$500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on April 9, 2008.

T. D. - On May 7, 2009, the LATC issued an administrative citation that included a \$1,000 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on June 7, 2009.

J.G. - On August 25, 2008, the LATC issued an administrative citation that included a \$1,500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on September 25, 2008. James Garcia paid the administrative fine on October 6, 2008, satisfying the citation.

S. L. - On March 3, 2008, the LATC issued an administrative citation that included a \$2,000 civil penalty (two cases) for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on April 4, 2008. Steven Ebeling paid the administrative fine on July 8, 2009, satisfying the citation.

B. M. - On March 3, 2009, the LATC issued an administrative citation that included a \$3,000 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on April 3, 2009.

P. M. - On June 12, 2008, the LATC issued an administrative citation that included a \$1,500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on July 13, 2008. Patrick May paid the administrative fine on July 14, 2008, satisfying the citation.

S. M. - On August 21, 2008, the LATC issued an administrative citation that included a \$1,500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on September 21, 2008. Steve Murko paid the administrative fine on September 23, 2008, satisfying the citation.

R. P. - On February 25, 2008, the LATC issued an administrative citation that included a \$1,500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on March 26, 2008.

M. R. - On February 24, 2008, the LATC issued an administrative citation that included a \$3,500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Persons Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on March 24, 2009.

C. R. - On September 18, 2009, the LATC issued an administrative citation that included a \$500 civil penalty for alleged violations of BPC sections 5671, Negligence, Willful Misconduct in Practice. The citation became final on November 16, 2009. The citation was paid in full on January 19, 2010.

M. R. On June 4, 2008, the LATC issued an administrative citation that included a \$1,000 civil penalty for alleged violations of BPC sections 5671, Negligence, and 5659, Inclusion of License Number - Requirement. The citation became final on July 4, 2008. Michael Rosenberg paid the administrative fine on September 10, 2008, satisfying the citation.

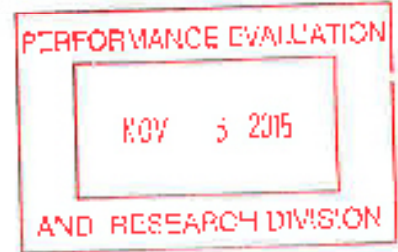
M. T. - On February 9, 2010, the LATC issued an administrative citation that included a \$500 civil penalty for alleged violations of BPC sections 5640, Unlicensed Person Engaging in Practice, Sanctions and 5641, Chapter Exceptions, Exemptions. The citation became final on March 9, 2010.



**West Virginia State Board of Registration
for Professional Engineers**

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November 4, 2015

Mr. John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislature
Building 1, W-314
1900 Kanawha Boulevard East
Charleston, WV 25305

Dear Mr. Sylvia:

This letter comes to you on behalf of the West Virginia State Board of Registration for Professional Engineers in response to the Regulatory Board Review of the WV Board of Landscape Architects transmitted to our office via email the evening of October 28, 2015. In particular, our Board was provided a copy of the report for consideration and comment based on Issue 1 which recommends placement of regulation of landscape architects under another board, such as the WV Board of Professional Engineers.

First and foremost, we would like to thank you and Ms. Tina Baker for the opportunity to review this report in advance of the upcoming Legislative Interim meetings where we understand this issue will be before the Joint Committee on Government Operations and the Joint Committee on Government Organization.

After a brief review of the Landscape Architects Board's evaluation by the Legislative Performance Evaluation and Research Division (PERTD), the WV PE Board members have voiced several concerns and have asked that this item be placed on the agenda for the upcoming WV PE Board meeting on Tuesday, November 10, 2015. I anticipate that a formal response outlining the Board's thoughts will be issued following their meeting.

Thank you for the opportunity to provide this brief written response for inclusion in the final report. The WV PE Board looks forward to the opportunity to meet with the Joint Committee on Government Operations and the Joint Committee on Government Organization during the November 15-16, 2015 interim meetings. The Board President, the Executive Director and other Board members, in addition to Board Counsel from the Attorney General's Office, will make ourselves available to answer any questions the members may have following your presentation of this report.

Respectfully Submitted,

A blue ink signature of Edward L. Robinson, P.E., written in a cursive style.

Edward L. Robinson, P.E.
Board President

A blue ink signature of Lesley L. Rosier-Labor, written in a cursive style.

Lesley L. Rosier-Labor
Executive Director

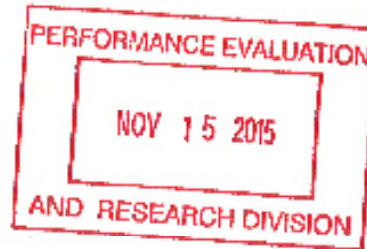


**West Virginia State Board of Registration
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November 15, 2015

Mr. John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislature
Building 1, W-314
1900 Kanawha Boulevard East
Charleston, WV 25305



Dear Mr. Sylvia:

This letter comes to you on behalf of the West Virginia State Board of Registration for Professional Engineers in response to the draft of the Regulatory Board Review of the WV Board of Landscape Architects transmitted to the WV PE Board on Monday, November 9, 2015. As you know, our Board was provided a copy of the report for consideration and comment based on Issue 1 which recommends placement of regulation of landscape architects under another board, such as the WV Board of Professional Engineers. We provided some comments on behalf of the Board during a November 10, 2015, teleconference with your staff, who requested this written follow-up.

Again, we would like to thank you and Ms. Tina Baker for the opportunity to review the latest draft report in advance of the upcoming Legislative Interim meeting where we understand the report will be presented to the Joint Committee on Government Operations and the Joint Committee on Government Organization. The Board President, the Executive Director and possibly other Board members, in addition to Board Counsel from the Attorney General's Office, will be in attendance at the meeting on Monday, November 16, 2015.

After a thorough review of the Landscape Architects Board's evaluation by the Legislative Performance Evaluation and Research Division (PERD), as well as our conversation during the teleconference with your staff and research conducted by our staff, the WV PE Board members have compiled a list of concerns as well as possible solutions for the Legislature's consideration. We appreciate the opportunity to provide the more detailed response for inclusion in the final report to be handed out to the members of the Joint Committee on Government Operations and the Joint Committee on Government Organization.

Again, the WV PE Board will be available to answer any questions the members may have following your presentation of this report and thanks you for providing us with the draft reports and including us in the discussion of Issue 1.

Respectfully Submitted,

Edward L. Robinson, P.E.
Board President

Lesley L. Rosier-Labor
Executive Director

300 Capitol Street, Suite 900, Charleston, West Virginia 25301

**Comments of the WV State Board of Registration for Professional Engineers
Regarding the Performance Evaluation and Research Division's (PERD)
Regulatory Review of the WV State Board of Landscape Architects**

The Legislative Auditor has found a large number of deficiencies in their review of the WV Board of Landscape Architects, most of which appear to be from the Board's inability to hire staff which means that all responsibilities fall to the Board members. The WV State Board of Registration for Professional Engineers (WV PE Board) members have reviewed the various numbers found in the Legislative report and have noted some important discrepancies and discussed some possible solutions.

The page numbers below reference the final draft report transmitted to the WV PE Board on Monday, November 16, 2015, which we refer to simply as "the Report."

Revenue:

On Page 9 of the Report, it is noted that the Board of Landscape Architects (LAs) has 162 licensees. Page 13 of the Report states the Board "cannot afford staff or its own office space". Table 2, on Page 19 of the Report, shows the Annual Renewal Fee equal to \$100. Assuming the 162 licensees would be required to renew their license each year, the Annual Renewal Fee alone should bring in revenue of \$16,200. This number appears to be in line with the 2012 revenue reported in Table 1, on Page 18. However, there is a shortfall of approximately \$2000-\$4000 in both FY 2013 and FY 2014. In addition, the LA Board's authorized fees allow several additional fees that should further increase the Board's revenues, such as application fees for licensees or firms, reinstatement fees, fees for temporary permits, renewal late fees, duplicate certificate fees, and more.

More significant is the lost revenue from the non-collection of Firm Annual Renewal Fees. This revenue was not addressed in the Report. Again, Table 2, on Page 19, shows the Firm Annual Renewal Fee as \$15 for sole proprietors and \$150 for firms with multiple employees. Regardless of the actual number of firms operating as sole proprietors and firms employing multiple landscape architects, there appears to be a significant amount of revenue uncollected.

The calculations below are estimates using the breakdown of sole proprietor and firms with multiple employees based on a similar breakdown of sole proprietor/multiple-employee engineering firms. Approximately one-fourth of the engineering firms are sole proprietors – which means the engineer is working alone with no employees. This means three-fourths of the firms have one or more professional engineers, and we have a two-tiered fee based on the number of professional engineers in the firm. Obviously, the validity of the 25/75 split in the calculation below cannot be ascertained at this time.

The 25/75 estimate would yield the following:

162 Landscape Architects x 0.25 sole proprietors = 40 firms x \$15/year = \$600
 162 Landscape Architects x 0.75 multiple employee firms = 122 firms x \$150/year = \$18,300
Potential Annual Firm Renewal Revenue Total = \$18,900

Total Potential Annual Renewal Revenue – \$16,200 (licensee renewals)
 + \$18,900 (firm renewals)
 = \$35,100

As one can see, if the shortfall in the L.A. annual renewal fees can be recovered, the potential annual renewal revenue more than doubles, and this increased renewal revenue alone could cover the costs of a part-time staff member to manage the administrative functions of this Board.

Possible Solutions:

As stated above, employment of administrative staff would appear to be the best way to address several of the deficiencies set forth in the Report. The WV PE Board would be willing to offer training and technical assistance to the LA Board members and any new staff hires to address those issues. Our lead staff are also willing to serve as mentors to the persons responsible for various tasks, including the following:

- Assistance and resources on development of a reliable database for new/existing licensees
- Training and resources on:
 - sending renewal notifications to licensees;
 - developing online renewals and collection of revenue;
 - properly recording incoming revenue (online/lockbox);
 - preparing an Annual Report to meet state requirements;
 - improving the Board website to meet expected standards and the Board's needs;
 - developing a register of applicants for licensure showing required information;
 - posting Open Meeting notices;
 - helping the Board be more accessible to the public;
 - investigating possible violations of the Board's statute and rules; and
 - helping with any other administrative matter that is part of the licensure process

Major Concerns:

Last, but certainly not least, are the most notable concerns of the WV PE Board. These concerns speak directly to Recommendations #2 and #3 of Issue #1, found on Page 14 of the Report:

#2 The Legislature should give consideration to eliminating the Board, placing regulation of landscape architects under another board, such as the Board of Registration for Professional Engineers, and imposing registration with title protection.

#3 – The Legislative Auditor recommends that if the Legislature places the regulation of landscape architects under the Board of Registration for Professional Engineers, the engineering board be increased by one member to represent landscape architects and continuing education be maintained.

The WV PE Board has three major concerns that are apparent to our agency after review of this report, these recommendations in particular, and our newly gained understanding of the boards licensing Landscape Architects nationally:

- Page 14 of your final draft report provides a glimpse into the combination of Boards in other states across our country. However, we think it important to note the one key piece of missing information is that **there are currently ZERO (0) boards that combine only Professional Engineers and Landscape Architects.** There are many that combine Landscape Architects with Architects or with a myriad of other usually land or building professions under an umbrella board (which some may or may not include Professional Engineers).
- Our current WV PE Board is comprised of 5 Board members which represent a total of 16,663 active, current licensees or certificate holders. This number signifies 8102 PEs, 3241 firm COAs, 306 Retired PEs, and 5014 Engineer Interns. Therefore, each of our 5 Board members currently represents 3333 licensees at our Boardroom table. To add 1 additional Landscape Architect member that represents 162 landscape architects (or possibly up to 300 landscape architects and qualifying firms) seems quite disproportionate. It would be the WV PE Board's recommendation that **should the WV Legislature decide to combine boards, it would be more appropriate to do so with a smaller board such as the WV Board of Architects or the WV Board of Surveyors.** In both cases, the constituent representation would be very much equivalent to that of the Landscape Architects.
- There would be an enormous expense associated with the combining of the two Boards into one entity. Without spending significant time researching exact costs, the WV PE Board has estimated the potential for at least \$100,000 in one-time expenses to merge the two boards into one. This estimate would include:
 - New database development;
 - Website overhaul;
 - Name change needs on such things as stationery and every other place the Board's name appears, including a redesign of all logos, publications and the exhibit booth;
 - Legal work for required statutory and rule changes; and
 - Probably many other incidental costs.

While we respectfully disagree with PERD's recommendation suggestion to possibly combine the two Boards, we appreciate PERD's confidence in our agency and staff to assist the WV State Board of Landscape Architects with their noted deficiencies. As always, we are confident that the WV State Board of Registration for Professional Engineers will continue to strive for excellence and provide the best service possible to our engineering community and citizens of this State, and will also be happy to train and assist the new staff hire and Board members of the WV State Board of Landscape Architects in doing the same for their constituents.



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