



Testimony on SB 557-2 on April 2, 2013

Presented to: Senate Committee on Business & Transportation

Presented by: Shelley Sneed, Administrator Landscape Contractors Board

Good afternoon Chair Beyer and honorable committee members. My name is Shelley Sneed and I am the Administrator of the Landscape Contractors Board. I'm here to provide testimony on Senate Bill 557-2 which would make several changes to the agency's statutes. The agency had concerns with the original version of the bill, but for the most part supports the amended version.

We appreciate the industry's willingness to work on amendments to this bill and including several of the agency's requests. The addition of a longer timeline for licensees to report address changes and creating a minimum dollar amount of landscaping work that requires a written contract benefits licensees without harming consumers. That's a win-win situation.

In 2012 the agency proposed changes to the continuing education program that would have relieved the burden of approving courses and programs. That rule change wasn't approved after licensee and industry feedback. The agency agrees with the changes made to the continuing education program in the amended version of the bill.

Other proposed changes would modify the agency's enforcement program to allow the agency some flexibility when dealing with licensees prior to assessing penalties, and make changes to assessing penalties for the unlicensed.

There are some concerns with the amendments to Section 5. If the agency looks at the economic and financial condition of the person incurring the penalty, we'll need to collect information to determine the financial condition and that may be seen as intrusive.

The language isn't clear about what economic or financial condition means. Does that include all landscaping income? All household income? We're not clear what the proposed intent is and are concerned that the penalties be equitable and fair and not penalize successful businesses.

The agency will also have to develop a consistent methodology for determining how to move forward based on the penalty and the verified financial condition. Our goal is to be fair and consistent with every violator of our law.

The proposed change to ORS 671.997(3)(a) and (b) would also double the agencies enforcement costs. A violation would be identified and it would need to be followed up on to see if the violation had stopped within the identified timeframe. Then the agency would need to follow up on any violator to make sure the required educational program

was completed. That would increase our costs which is something the agency has been avoiding. No fees have been increased since 2009.

The other concern with the section that deals with licensed violators is the board approving educational programs for violators. That would require us to go back into identifying or approving educational programs, which was being relieved through the continuing education statute changes. Most of the agency's penalties are assessed against businesses. If the violation is against the business, who would be required to complete the educational program? If it's the owner or manager, they may not be the party that created the violation, so the education may not meet the intended purpose.

We'd also like to add a 2(d) that says:

"The immediacy and extent to which the violation threatens public health, safety, or welfare."

Section 7 deals with a review of the agency's licensing examinations. In February the board approved changes to the examination process that will be implemented later this month.

- First, all sections of the exam, except the backflow section, will be open book beginning this month. The backflow section is a plumber's exam, so the agency didn't change that exam process.
- Second, four of the exam sections are sourced to a new study guide developed by the agency. As of April 25th the Landscape Construction; Grading & Drainage; Safety, Estimating, Soils and Chemicals; and Irrigation sections are sourced to the Landscape Construction, Oregon Edition by David Sauter. In the past applicants had to study a long list of reference materials, now their efforts are targeted to a primary study guide.
- Third, the board approved time accommodation for individuals whose primary language isn't English.
- Fourth, the agency will review all exam questions after a six month implementation timeline and re-evaluate any questions that applicants are still struggling with. The goal is to ensure that the test measures a minimum competency for an applicant.

If section 7 of the amended bill stands, we will honor the legislation, but we want to be sure that the legislature understands that the agency has recently made significant changes to the examination process and is working to make our exams more accessible for a variety of applicants.

We appreciate the committee's time and consideration this afternoon and will happily answer any questions you may have.