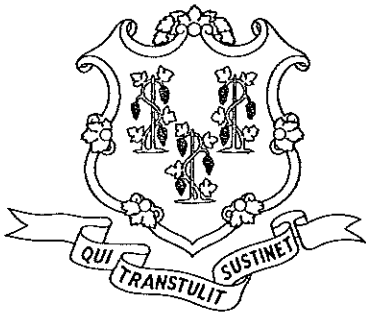


State Board of Landscape Architects

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

SUNSET 1982

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

1981-82 Committee Members

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OF
LANDSCAPE ARCHITECTS

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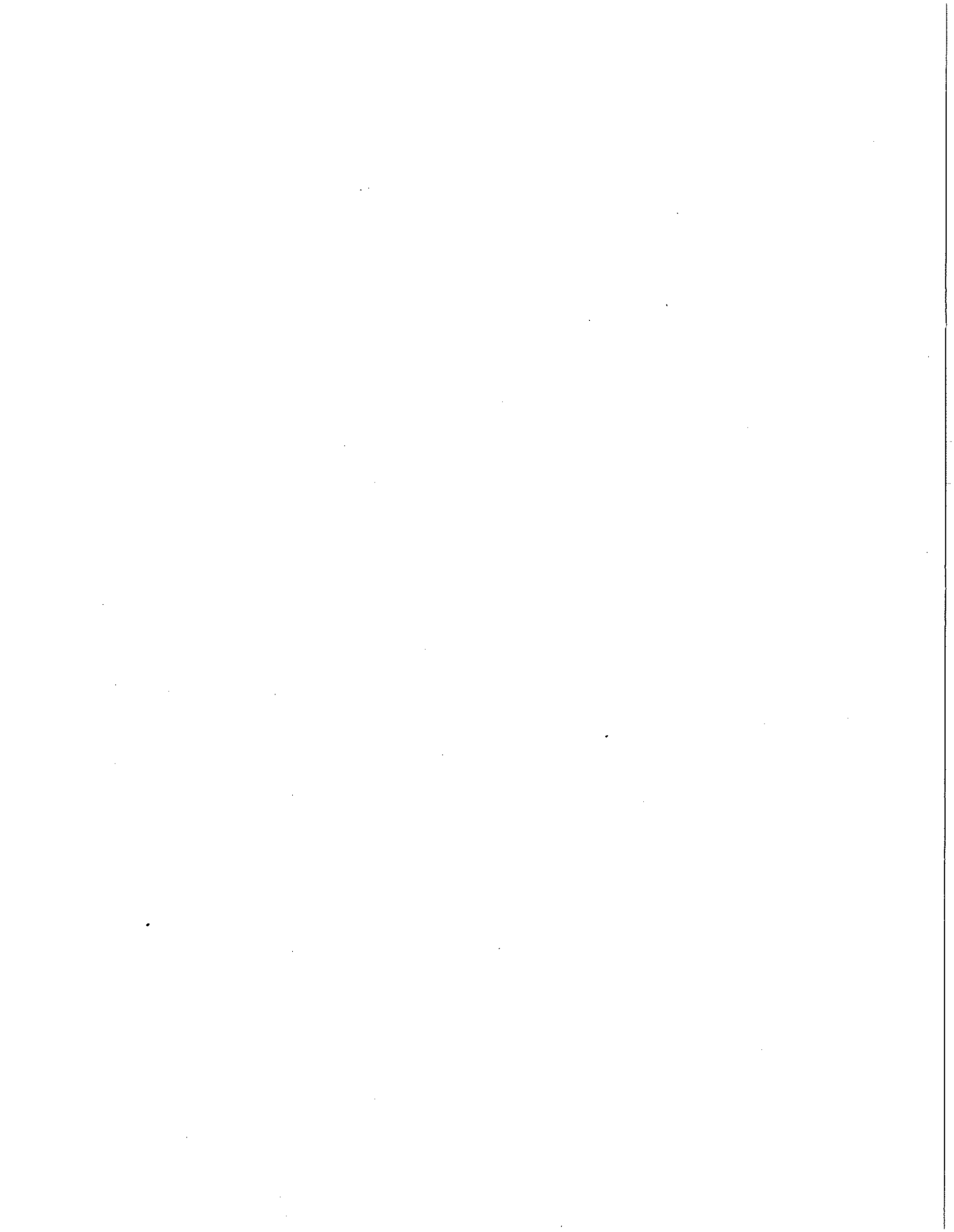
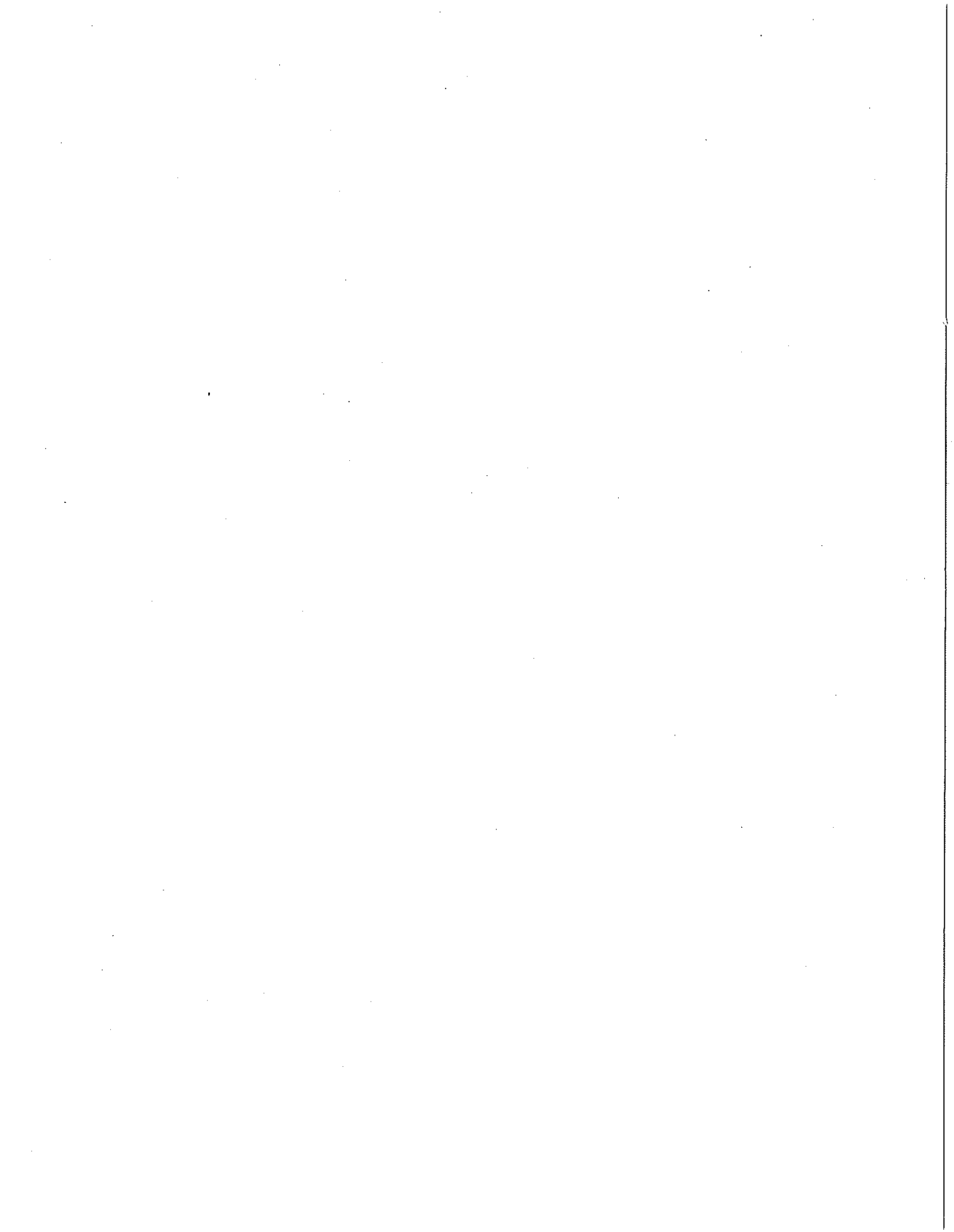


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STATE BOARD OF LANDSCAPE ARCHITECTS

SUMMARY

Regulation of landscape architects was initiated in Connecticut in 1967 with statutes requiring persons who wished to call themselves landscape architects to meet certain educational and experiential criteria and to pass an examination. Simultaneously, a State Board of Landscape Architects was established to oversee entrance into the profession and handle complaints. In 1973 the examination was required to include the uniform national examination established by the Council of Landscape Architectural Boards.

The seven member State Board of Landscape Architects is currently under the Department of Consumer Protection. The board sets standards for admission to the profession and maintains standards for the practice of the profession by:

- determining the eligibility of candidates for the examination by evaluating their education and work experience
- prescribing the examination, with the consent of the Commissioner of Consumer Protection
- administering and grading the examination
- approving the issuance of licenses
- receiving complaints and conducting hearings
- suspending or revoking licenses upon a finding of fraud, misrepresentation, deceit, or gross incompetence
- keeping a record of all licensed landscape architects in Connecticut.

Connecticut has 310 licensed landscape architects. The board generated revenues in FY 1980 of \$13,595 through application and license fees. During the same period the Department of Consumer Protection recorded expenditures of \$9,195 for the board and the regulation of the profession. During FY 1980, seventeen persons took the examination and seven passed.

In order to take the examination an applicant must have graduated from a school or college of landscape architecture approved by the Council of Landscape Architectural Boards and worked two years under the direct supervision of a licensed

landscape architect. Persons lacking the educational component may substitute eight years of experience in the actual practice of landscape architecture. The board evaluates each application at its meetings. Although also empowered to handle complaints, the board has none recorded against licensed landscape architects in the Department of Consumer Protection files.

The Legislative Program Review and Investigations Committee concluded that the State Board of Landscape Architects in no way contributes to the public health, safety, or welfare. Therefore, *the Legislative Program Review and Investigations Committee recommends that the State Board of Landscape Architects be terminated.*

The committee further determined that landscape architects rarely work for the private citizen, but rather for municipalities, corporations, and government agencies who are in a position to assess the credentials of any landscape architect they employ. In addition, most of their projects require the approval of town planning and zoning commissions, town engineers, and other appropriate individuals or groups, thus providing a safety check on these projects. Therefore, *the Legislative Program Review and Investigations Committee recommends that the practice of landscape architecture be deregulated.*

INTRODUCTION

Purpose and Authority for the Sunset Review

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that there had been a proliferation of governmental entities and programs without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. This committee is charged, under the provisions of section 2c-3 of chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations, or policies, including budgetary and personnel policies.

In addition to the criteria contained in section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

In accordance with its legislative mandate, the Legislative Program Review and Investigations Committee reviewed sixteen entities and programs scheduled to terminate July 1, 1981. Contained in this report to the General Assembly is the result of the committee's review of the State Board of Landscape Architects.

Methodology

The Legislative Program Review and Investigations Committee's sunset review was divided into three phases. The initial step focused on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs, and accomplishments. Several methods were used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (including minutes, complaint files, test results and reports), and data and statutes of other states; (2) staff observations of numerous meetings held by each entity between January and August of 1981; (3) surveys of persons connected with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by, or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organized the information into descriptive packages and presented them to the committee. The presentations took place in public sessions designed to prepare committee members for the hearings, identify options for exploration, and alert entity officials to the issues the committee would pursue at the hearings. Seven public hearings concluded this phase.

The final step of the review involved committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepared decision papers and presented recommendations to the committee. The committee, in public sessions, then debated and voted upon recommendations for the continuation, termination or modification of each entity.

BACKGROUND

Legislative History

In 1967, with Public Act 748, the General Assembly initiated the regulation of landscape architects. Subsequent to the passage of the act, only those persons meeting the criteria therein described were permitted to call themselves landscape architects "or display or use any words, letters, figures, title, signs, seal, advertisement or other device"¹ that would indicate they practiced landscape architecture. Such criteria included graduation from "a college or school of landscape architecture approved by the board," "two years' practical experience under the direct supervision of a registered landscape architect" and passage of an examination "prescribed by the board" (P.A. 748, p. 1240). Those who could not meet the educational requirements were permitted to substitute an additional six years of appropriate experience. In addition, all persons who had been practicing landscape architects for a minimum of four years prior to October 1, 1967 were to be licensed without examination.

P.A. 748 also established a five member board of landscape architects (three to be practicing professionals) to be appointed by the governor. The board was empowered to make "necessary regulations and bylaws" (P.A. 748, p. 1240) and to "subpoena witnesses" and "require the production of books, papers and documents in any proceeding involving the revocation of registration, or practicing or offering to practice without registration" (P.A. 748, p. 1240). The board was also to prescribe the examination and designate the approved schools and colleges. The secretary of the board was required to issue a certificate to each person who successfully passed the examination, while the board was required to keep a record of all landscape architects.

The act also delineated a schedule of fees and a list of persons exempted from the provisions of the act. The latter included architects, engineers, land surveyors, "nurserymen, landscape nurserymen, gardeners, landscape gardeners, and general or landscape contractors," as well as "vendors of goods or materials" who wished to provide "drawings or graphic diagrams" (P.A. 748, p. 1242).

¹ Connecticut Public Acts, Dec. 1965, Jan. 1967, p. 1239.

In 1973, with P.A. 73-298, the board of landscape architects was expanded to seven persons of which four were required to be landscape architects, and with P.A. 73-361, the examination was required to include the uniform national examination established by the Council of Landscape Architectural Boards.

Since 1973, no substantial changes have been made in the statutes.

Nature of the Profession

A landscape architects's professional practice, according to statute, includes "the service of site planning, which may involve and encompass the design or management of land, the arrangement of natural and artificial elements and the determination and consideration of inherent problems of the land relating to natural and artificial forces with concern for resource conservation in accordance with accepted professional standards of public health, safety and welfare, such service to be rendered to clients by consultation, investigation, reconnaissance, research, planning, specification, design or periodic observation."² A landscape architectural project can be divided into three stages. The first is a study of the site, which entails an inventory and analysis of natural features and an exploration of proposed site usage. The second stage is design development and determination of materials to be used. The third stage includes the involvement of the landscape architect with any other professionals (builders, architects, engineers, etc.) working on the project and, through the use of drawings, specifications, direct supervision, and oversight, ensuring appropriate site development.³

The skills of landscape architects are used to design and develop the sites of corporate, industrial, office, and sports complexes, municipal projects, shopping centers, multi-unit housing developments, schools, and hospitals. Although occasionally providing their services for the individual homeowner, landscape architects are largely employed by corporations, municipalities, and government agencies.

² General Statutes of Connecticut, revised to 1981, Sec. 20-367.

³ Interview with Vincent McDermott, Chairperson, State Board of Landscape Architects; Connecticut Board of Landscape Architects. Landscape Architecture, privately printed, p. 6.

Structure

The State Board of Landscape Architects consists of seven persons: four landscape architects who have practiced for at least ten years and whose principal places of business are within the state and three public members, all appointed by the governor. The board is located within the Department of Consumer Protection.

Purpose, Powers, and Duties

The State Board of Landscape Architects was established to set standards for admission to the profession and maintain standards for the practice of the profession. It does so by:

- determining the eligibility of candidates for the examination
- prescribing the examination with the consent of the Commissioner of Consumer Protection
- administering and grading the examination
- approving the issuance of licenses
- receiving complaints and conducting hearings
- suspending or revoking licenses upon a finding of fraud, misrepresentation, deceit, or gross incompetence
- keeping a record of all licensed landscape architects in Connecticut.

Fiscal Information

The budget for the State Board of Landscape Architects is formulated by the Department of Consumer Protection, which has supplied the information listed below:

	<u>FY 1980</u>	<u>Estimated FY 1981</u>
Board Expense	\$ 638	\$ 675
Staff Expense	4,927	5,500
Other Expenses	1,884	2,100
Administrative Expense	1,746	3,301
Total Expense	<u>\$9,195</u>	<u>\$11,576</u>

It should be noted that these figures represent approximations of costs, as changes in budgetary procedures preclude determination of exact costs.

The licensing of landscape architects generates revenue through an application fee of \$75 and a renewal fee of \$40. Revenues generated for FY 1980 and FY 1981 are as follows:

	<u>FY 1980</u>	<u>FY 1981</u>
Applications	\$ 1,275	\$ 1,575
Licenses	<u>12,320</u>	<u>12,400</u> (estimated)
Total revenue	\$13,595	\$13,975

ACTIVITIES

Statistics

Below is an outline of annual statistics of the State Board of Landscape Architects and its activities.

Number of Meetings:	12 per year
Average Attendance:	4 members
Average Length:	1½ hours
Number of Complaints:	None
Number of Licensees:	310 (1981)
Number of Applicants:	21 (1981)

Licensing Process

The use of the title "landscape architect" and the practice of that profession in Connecticut is restricted to those persons who have "first secured a certificate of registration."⁴ However, architects, engineers, land surveyors, nurserymen, gardeners, landscape gardeners and general or landscape contractors are free, within the scope of their professional practices, to perform services which are also rendered by landscape architects, provided they do not use the title.

In order to become a licensed landscape architect, an individual must pass the uniform national examination designed by the Council of Landscape Architectural Boards. Although candidates may also be tested on "such technical and professional subjects as may be prescribed by the board with the consent of the commissioner of consumer protection,"⁵ the national examination suffices at the present time. To be eligible to take the examination a candidate must have either:

- graduated from an approved school or college of landscape architecture and
 - worked for two years under the direct supervision of a licensed landscape architect
- or:
- worked for eight years in the actual practice of landscape architecture

⁴ General Statutes of Connecticut, revised to 1981, Sec. 20-369.

⁵ Ibid., Sec. 20-370.

In addition to the statutory requirements listed above, the board requires five letters of recommendation (two from licensed landscape architects). The board is empowered to waive the examination and grant licensure to a landscape architect licensed in another state provided that state's standards are at least equal to those of Connecticut. All applications are reviewed and approved or disapproved by the board.

From July 1, 1979 to July 1, 1980, seventeen persons applied for and took the examination. Of these, seven passed. Those persons failing the examination need only be reexamined on those sections not passed. Members of the board do all the grading of the examinations. During this same period, 308 licenses were renewed.

Complaint Process

The board is empowered to receive complaints and conduct hearings. Upon findings of fraud, misrepresentation, deceit or gross incompetence, the board may suspend or revoke a landscape architect's license. The files of the Department of Consumer Protection reveal no complaints against licensed landscape architects.

ANALYSIS AND RECOMMENDATIONS

The Legislative Program Review and Investigations Committee's analysis and evaluation of landscape architects focused on both the State Board of Landscape Architects and on the regulation of the profession.

In relation to the board, the committee sought to determine, under its statutory mandate, the manner in which the board had "processed and resolved public complaints,"⁶ whether the board had restricted entry into the profession, and whether its termination "would significantly endanger the public health, safety or welfare."⁷

Staff examination of Department of Consumer Protection files revealed no public complaints since the board's inception. This situation may be reflective of the high standards of members of the profession, the particular nature of landscape architectural work in a competitive economy, and/or the fact that landscape architects, whether in private practice or as members of engineering or architectural firms, rarely work directly for the individual homeowner or private citizen. Those who employ landscape architects--corporations, municipalities, and government agencies--are in positions from which they are able to accurately assess the qualifications and past performance of any landscape architect they might employ. The lack of complaints does indicate that the board itself is not directly involved with matters affecting the public health, safety, or welfare.

Committee staff attended board meetings from February to June 1981 at each of which one or more applications for the examination were reviewed. There was no evidence of any attempt to restrict qualified applicants for the examination (except as they are currently restricted by statute); rather, applicants were promptly informed when their files were incomplete to allow them every opportunity to take the examination.

However, during the public hearing, the committee questioned the chairperson of the board in regard to "subjectivity [that] could be injected into the testing process" as a result

⁶ General Statutes of Connecticut, revised to 1981, Sec. 2c-8.

⁷ Ibid., Sec. 2c-7.

of the grading conducted by board members, thereby "limit[ing] access to the profession."⁸ Mr. McDermott replied that the board "would be happy to turn that service over to CLARB [Council of Landscape Architectural Boards]"⁹ but had decided, in conjunction with the Department of Consumer Protection, that fiscal considerations made the board's continued grading of examinations desirable.

In deciding whether or not to terminate the State Board of Landscape Architects, the committee focused on the two major activities of professional boards: licensing and handling complaints. The committee viewed the statutory prerequisites for taking the examination required for licensure as not being of the type that would require professional judgment by the board: schools are approved by the Council of Landscape Architectural Boards and the number of years of experience is a quantitative determination. Although the board currently grades the examinations at no cost to the state (except, of course, the cost of maintaining the board), they can be graded by the Council of Landscape Architectural Boards, which designs the examination, at a cost of \$18 per section (total per exam: \$108).

In its review of the board's complaint handling activities, the committee found that the board had received no complaints since its inception. Therefore, the board has had no activities in the second of the two areas with which the committee was concerned. As a result of the foregoing evaluation, *the Legislative Program Review and Investigations Committee recommends that the State Board of Landscape Architects be terminated.*

In examining the regulation of the profession, the committee sought to determine whether a level of regulation other than licensing or whether deregulation would be most appropriate, while not endangering the public health, safety, or welfare. At interviews with committee staff and at the public hearing held on June 19, 1981, landscape architects testified there would be considerable danger to the public if licensing were discontinued. Because landscape architects "are involved in grading of sites, surface drainage and similar aspects of the discipline of engineering,"¹⁰ they believe that "unsafe conditions" such as flooding, cracked walkways and collapsing playground structures may result from a lesser degree of regulation. Members of the profession stated that they are instrumental in "protecting watersheds,

⁸ Representative Joseph Harper, Public hearing testimony, June 19, 1981, p.11.

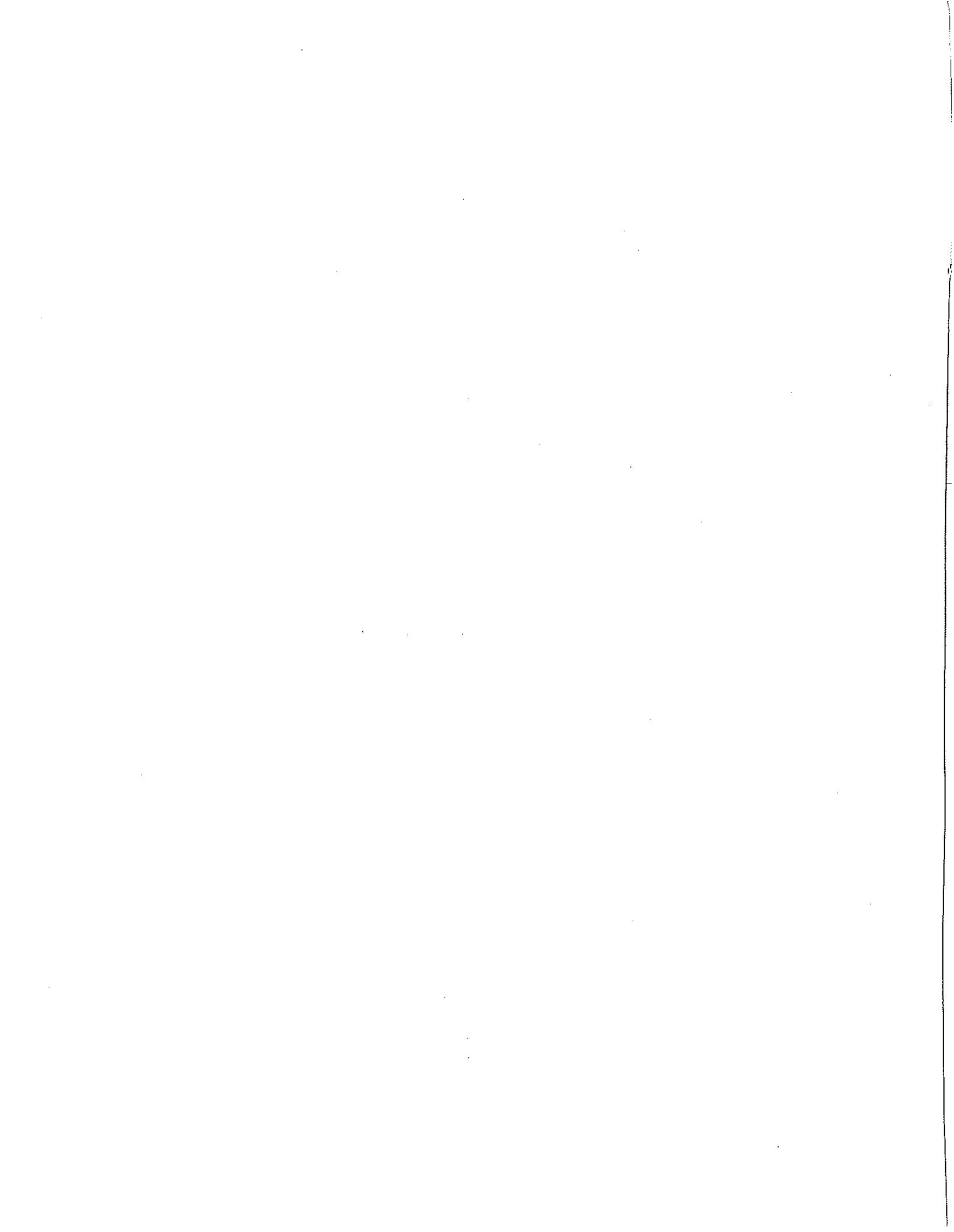
⁹ Vincent McDermott, Public hearing testimony, June 19, 1981, p.11.

¹⁰ Vincent McDermott, Public hearing testimony, June 19, 1981, pp. 2 and 6.

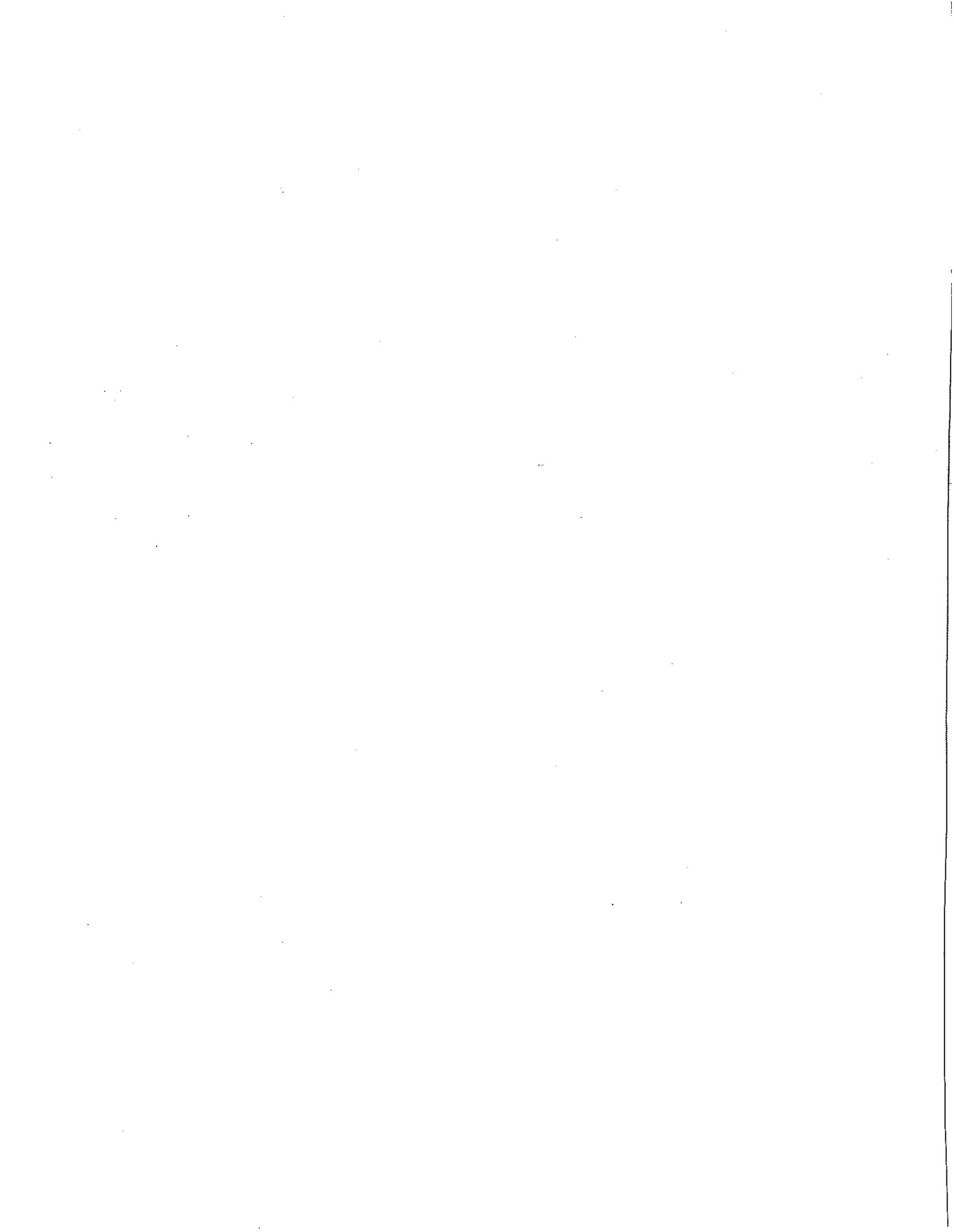
controlling run-off and erosions, highway corridor alignment,... planning...approved access for [the] handicapped," and designing other projects where public safety is a factor.¹¹

However, investigation by committee staff and public hearing testimony revealed that plans for many projects involving the services of landscape architects require the approval of town zoning and planning commissions, town engineers, and other appropriate individuals or groups, thus providing a safety check on those projects. In addition, corporations, municipalities, and government agencies, which almost exclusively employ landscape architects, bear the liability for any unsafe design or construction. It is not only in their best interests to carefully check the qualifications and experience of any landscape architect they might employ, but, in addition, they have the resources to do so. The committee also concluded that while the practice of landscape architecture is concerned with aesthetics, design, and functional use of outdoor areas, there is little opportunity for involvement in unsupervised or unapproved projects that could substantially affect the public health, safety, or welfare. Therefore, *the Legislative Program Review and Investigations Committee recommends that the practice of landscape architecture be deregulated.* This, of course, does not preclude certification by one or more professional organizations, which would testify to a landscape architect's qualifications. In this way, the profession would set its own standards while remaining free of state involvement.

¹¹ Kenneth Nyerlin, Public hearing testimony, June 19, 1981, p. 33.



APPENDICES



APPENDIX A

SUNSET 1982

ENTITY: State Board of Landscape Architects (20-367 to 20-376)

ESTABLISHED: 1967 (P.A. 748)

PURPOSE: to establish standards for admission to the profession and maintain standards in the practice of the profession

POWERS AND DUTIES:

- establish standards for entry into the profession
- determine eligibility to take the examination
- prescribe the examination, with the consent of the Commissioner of Consumer Protection, and supervise its administration
- approve the issuing of licenses
- keep a record of names and addresses of all certified landscape architects in Connecticut
- receive complaints, conduct hearings, and suspend or revoke licenses of those landscape architects found guilty of fraud, misrepresentation, deceit, or gross incompetence

COMPOSITION: Seven members

- four landscape architects
- three public members

PRACTICE DEFINED:

"'The practice of landscape architecture' means rendering or offering to render the service of site planning, which may involve and encompass the design or management of land, the arrangement of natural and artificial elements and the determination and consideration of inherent problems of the land relating to natural and artificial forces with concern for resource conservation in accordance with accepted professional standards of public health, safety and welfare, such service to be rendered to clients by consultation, investigation, reconnaissance, research, planning, specification, design or periodic observation." (C.G.S., Sec.20-367)

STAFF: 1/2

BUDGET:

	<u>FY 1980</u>	Actual 1st 8 mos. <u>FY 1981</u>	Est. <u>FY 1981</u>
Board Exp.	\$ 638	\$ 444	\$ 675
Staff Exp.	4,927	3,641	5,500
O & E	1,884	2,074	2,100
Admin. Exp.	<u>1,746</u>	<u>2,328</u>	<u>3,301</u>
TOTAL EXPENSE	\$9,195	\$8,487	\$11,576

Statistics

Number of Meetings: 12
Average Attendance: 4 members
Average Length: 1½ hours

Number of Licenses:

<u>FY 1980</u>	<u>FY 1981</u>
308	310

Revenue Generated: \$11,320 \$2,250*

License Fee: \$40

Application Fee: \$75

Examinations:

	<u>Applicants</u>	<u>Exam Takers</u>	<u>Number Passed</u>
1979-80	17	17	7
1980-81	21	20	*

* Complete figures not available

Complaints

None

APPENDIX B

State Board of Landscape Architects

Composite Picture of a Board Meeting

After reviewing and approving the minutes, the board moves on to an assortment of matters essentially engendered by correspondence it has received. The matters are extremely wide-ranging, but include such items as the following: membership discussion of changes in the national exam; proposed revisions of professional organization by-laws; pre-examination orientation for applicants; a letter requesting clarification of work done by landscape architects and land surveyors.

The board also reviews every applicant for the examination and there have always been a few at each meeting. Educational requirements are checked and most of the discussion centers on types of professional experience and letters of recommendation. The secretary is asked to notify those whose folders are incomplete so they may supply missing material in time to take the examination. Some individual problems that are dealt with are arrangements for applicants who reside in another state and wish to be licensed in Connecticut or who are already licensed in another state and wish to have reciprocal licensing in Connecticut.

The board has received no valid complaints. During the period of review they did receive two complaints (accompanied by advertisements) from landscape architects asserting that the ads of nurseries or garden shops suggested these establishments did architectural landscape work. The board examined these ads and unanimously determined there was no violation. Letters were sent to the complainants informing them of the board's decision.

APPENDIX C
Criteria for Licensing

State Board of Landscape Architects

- examination: national uniform examination established established by the Council of Landscape Architectural Boards (statutes)
- education: graduation from college or school of landscape architecture approved by board (statutes)
- experience: 2 years under direct supervision of registered landscape architect (statutes)
- alternate qualifications: in lieu of the above educational and practical experience, the applicant may present evidence of 8 years of actual, practical experience in landscape architectural work (statutes)
- references: 5 letters of recommendation to testify to the applicant's ability (two must be from licensed landscape architects) (board)

APPENDIX D
Complaint Procedures

Landscape Architects

- Letters of complaint are discussed by the board at meetings.
- The only complaints received during the past two years have been a very few from landscape architects about unlicensed persons doing such work. Since in each case the board has dismissed the matter as being invalid, there is no developed complaint procedure.

APPENDIX E

Legislative Changes

Repeal Chapter 396 of the General Statutes of Connecticut to eliminate the State Board of Landscape Architects and all regulation of the profession.