

TEXAS STATE BOARD OF LANDSCAPE ARCHITECTS

Staff Report  
to the  
Sunset Advisory Commission  
February 20, 1978

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## INTRODUCTION

This report is submitted pursuant to Section 1.06, Subsection (3) of the Texas Sunset Act and contains a review of the operations of the Texas State Board of Landscape Architects. Termination of the Texas State Board of Landscape Architects has been scheduled for September 1, 1979 unless it is continued by law.

The material contained in the report is divided into three major sections: Background, Review of Operations and Conclusions. The Background section contains a brief history of legislative intent and a discussion of the original need for the Texas State Board of Landscape Architects. The Review of Operations section contains a review of the operation of the agency, and uses the self-evaluation report submitted by the agency as the basis of review unless noted. The information contained in the self-evaluation report was verified, and additional data were obtained through interviews and review of agency files and other data sources. The Conclusions section summarizes the import of material developed in the individual criteria, from the standpoint of whether or not Sunset criteria are being met, and develops approaches relative to these findings.

This report is designed to provide an objective view of agency operations, based on the evaluation techniques utilized to date. Together with pertinent information obtained from public hearings, a factual base for the final recommendations to the Legislature will be provided.

BACKGROUND

The Texas State Board of Landscape Architects was created in 1969 by House Bill 111, Acts of the Sixty-first Legislature, Regular Session, codified as Article 249c, V.A.C.S. The Act was signed on June 10, 1969, and became effective September 1, 1969.

The Board currently licenses both landscape architects and landscape irrigators. The original responsibilities given the Board in 1969 involved establishing and maintaining minimum standards of education, competence and experience for individuals seeking a license from the Board to use the title landscape architect. Responsibilities for regulating landscape irrigators were added in 1973.

Section 1(a) of Article 249c defines landscape architect as "a person licensed to practice or teach landscape architecture in this state. . . ." The occupation of landscape architecture is further defined in Section 1(b) to embrace:

. . .the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include any services or functions within the definition of the practice of engineering, public surveying, or architecture as defined by the laws of this state.

For purposes of presentation the responsibilities of the Board relating to the licensing of landscape architects will be discussed separately from those relating to landscape irrigators. The three original appointees to the Board were landscape architects who were required by statute to be citizens of the United States and residents of the State of Texas. Each member was required to have represented

himself as a landscape architect for at least 10 years prior to appointment to the Board.

On September 29, 1969, operating rules were adopted by the Board which outlined procedures and policies used to fulfill the statutory responsibilities of the Board. For five years the only full-time staff was the Executive Secretary.

Prior to 1971, the Board used locally constructed examinations to license candidates having landscape architecture degrees or seven years experience under landscape architects. Afterward the Uniform National Examination was obtained from the Council of Landscape Architectural Registration Boards, a national coordinating organization of state landscape architectural licensing boards.

The enabling legislation was expanded in 1973 by Senate Bill 237, Acts of the 63rd Legislature, Regular Session, to specify requirements for setting state licensing standards for persons who represent themselves to the public as landscape irrigators. At that time the Board was expanded and three landscape irrigators were added. Section l(g) of the revised Act provides that the chairman ". . .shall be a landscape architect. . . ."

A landscape irrigator is defined as:

. . .a person, corporation, partnership, or other legal entity duly licensed in this state under this Act, who has and shall maintain a regular place of business, and who, by himself, or through a person or persons in his employ, sells, designs, consults, installs, maintains, alters, repairs, or services any landscape irrigation system or yard sprinkler system including connections in and to any private or public potable water supply or water supply system.

To determine qualifications for licensing landscape irrigators, the Board administers a local examination. There are no experience or educational requirements to qualify for the examination to be licensed as a landscape irrigator by the Board.

Section l(f) of the Act defines a landscape irrigation system as

. . .any assembly of component parts permanently installed with and for the controlled distribution of water for the purpose of irrigating any and all types of landscape vegetation, in any location, or for the purpose of dust reduction or erosion control.

Registered professional engineers, building designers, land surveyors, nurserymen, and architects are exempted from the provisions of the Act. In addition, work performed by a property owner within the boundaries of property he owns is not affected by the licensing requirements. Other exemptions cited in Section 2(a)(3) include:

- 1) anyone acting as a regularly employed maintenance person whose performance of these functions, as defined, is "incidental to and in consideration with" his employment;
- 2) employees of railroads who may be engaged in "construction, installation and maintenance work done" on the premises or equipment of the employer;
- 3) persons engaged by a public service company who may have occasion to become involved in landscape irrigation and yard sprinkler construction or maintenance while engaged in the installation, operation and maintenance of service lines, mains, or related equipment;
- 4) temporary or portable watering devices; and
- 5) agricultural irrigation.

It is specifically noted, however, that persons exempted from the licensing provisions of the Act shall not "use the title or term 'landscape architect' or 'landscape irrigator' in any sign, card, listing, advertisement. . ."

Operation of the Board is financed by the collection of fees deposited in a special fund in the State Treasury. Appropriations are made to the Board by the Legislature and the balance is cumulative. Unappropriated funds remain in the fund. Section 10 of the Act provides that ". . .expenditures for the administration and enforcement of this Act shall be in amounts and for the purposes fixed by the general appropriations bill." Further, Section 4(b) provides that ". . .no part of the



expense of administering this Act shall ever be charged against the general funds of the State of Texas."

#### COMPARATIVE ANALYSIS

To determine a pattern of regulation of the occupations of landscape architecture and landscape irrigation within the United States a survey of the 50 states was conducted to determine how this regulation has been addressed in other states.

The need to regulate the occupation of landscape architecture is currently expressed in licensing requirements imposed by 35 of the 50 states surveyed. From the standpoint of organizational patterns, 15 states, including Texas, meet this expressed need with an independent board or commission whose members are appointed by the chief executive. In 20 states, the function is carried out in a governmental department charged with the regulation of multiple occupations.

In those states which use independent boards and commissions, eight require confirmation of appointees by the Legislature. Membership in 28 states is limited to persons who are licensed members of the occupation. In Texas, appointees are confirmed by the Senate and membership is limited to persons who are licensed members of the occupation. Forty-three percent of the states, as does Texas, use independent governing bodies and limit the responsibilities of the membership to that of policy making as distinguished from the role of fulltime administrators.

A majority of the states, including Texas, report that the revenue sources of the regulatory body, regardless of organizational form, were derived from fees collected. Only 16 of 35 states reported that these bodies were not solely supported by fees and charges of the agency.

Thirty-two of the states regulating the occupation of landscape architecture administer national examinations. The other states develop and administer their own examination. Texas uses a national examination. The examination is required only once in 35 states, including Texas. In 23 states, licensees are required to renew their licenses annually. Texas licenses for a one-year period. Enforcement activities in 31 states, including Texas, center on investigation of complaints from consumers and others engaged in the occupation of landscape architecture. Hearings are conducted inside the regulating agency in 29 states. In Texas hearings are conducted by the agency.

Since landscape irrigators are licensed in only five states, this analysis was limited to a discussion of the landscape architecture licensing procedures of other state boards.

## REVIEW OF OPERATIONS

### Criterion 1

The efficiency with which the agency or advisory committee operates.

The review under this criterion centered on financial data and other records of the agency. This information was analyzed to determine if funds available to the agency had been utilized in a reasonable manner to achieve the purposes for which the agency was created and to determine if areas existed in which greater efficiency of operations could be achieved.

Administrative Procedures. Similar to many licensing boards, the policy and decision-making functions are performed by the Board in open public meetings. Certain administrative and support tasks are performed by the Executive Secretary, a secretary, and one part-time bookkeeper.

Site visits to the agency allowed extensive review of tasks performed by the staff. Other areas covered during the review included the organization, adequacy, and use made of agency records management systems. An attempt was made to define each element of responsibility contained in the Act, Article 249c, V.A.C.S.

Although the Board must hold only two regular meetings each year to examine candidates or conduct business, it maintains a full-time office staff under the direction of an Executive Secretary. The Executive Secretary and the clerical staff are responsible for the following functions associated with the Board's regulatory activities:

1. Handling all correspondence.
2. Responding to all requests for information.
3. Notifying and scheduling applicants for examination and any other duties associated with administration of the examination.

4. Attending all board meetings to record the minutes.
5. Purchasing supplies and equipment.
6. Performing all clerical support functions associated with issuing licenses and other Board activity.
7. Maintaining all financial records and license files.
8. Providing clerical support associated with annual license renewals.

Costs Associated with Staff Support. One Secretary III and one part-time Secretary III perform the major tasks associated with maintaining financial records and license files. In fiscal year 1977, these personnel costs were \$11,861.

Board Activities. Information concerning the activities of the Board was documented by a review of Board minutes and agency records. The Board has met 48 times since it organized. During this period, 24 examinations were held, 14 for landscape architect candidates and 10 for landscape irrigator candidates. Travel and per diem records were reviewed and no problems were found.

In 1971 the Board adopted the Uniform National Examination (UNE) for landscape architects. This exam was administered for 13 of the 14 landscape architecture examinations held. The agency reports that of the 477 landscape architect candidates examined, 179, or 38 percent, have been registered. The 10 landscape irrigator examinations were local examinations, and of the 268 candidates examined, 180, or 67 percent, have been registered.

Revenues and Expenditures. An analysis of the revenues and expenditures of the Board indicates that a sizeable surplus was rapidly accumulating until the annual renewal fees were lowered. The landscape architect annual renewal fee was decreased from \$50 per year to \$40; the landscape irrigator annual renewal fee was decreased from \$100 to \$60.

EXHIBIT I-1  
Board of Landscape Architects  
Revenues and Expenditures Summary

Fiscal Year	Licenses And Fees	Transfer to General Fund	Other	Total	Expenditures	Percent Increase	Fund Balance	Percent Change
1970	\$ 32,950	\$ (1,700)	-	\$31,250	\$ 16,745		\$14,505	
1971	22,555	(1,889)	-	20,666	16,447	(1.8)	18,724	29.1
1972	29,265	(2,327)	-	26,938	19,589	19.1	26,073	39.2
1973	29,515	(1,900)	-	27,615	21,590	10.2	32,100	23.1
1974	74,012	(3,187)	\$ 41	70,866	21,254	(1.6)	81,712	154.6
1975	64,068	(2,100)	-	61,968	41,704	96.2	101,976	24.8
1976	51,607	(3,316)	\$ 767	49,058	55,119	32.2	95,915	(5.9)
1977	58,073	(4,500)	450	54,023	50,623	(8.2)	99,316	3.5
<u>Projected</u>								
1978	60,000	(4,750)	-	55,250	59,896		94,970	
1979	65,000	(4,750)	-	60,250	58,180		97,040	
1980	67,000	(5,000)	-	62,000	64,929		94,111	
1981	72,000	(5,000)	-	67,000	63,000		98,111	
1982	75,000	(5,250)	-	69,750	70,308		97,553	

EXHIBIT I-2

Board of Landscape Architects  
 Percent Change in Revenues, Expenditures and Fund Balance  
 1970-1977

FY	1970	1971	1972	1973	1974	1975	1976	1977
Total Revenue	\$31,250	20,666	26,938	27,615	70,866	61,968	49,058	54,023
(Percent Change)	-	(33.9)	30.3	2.5	156.6	12.6	(20.8)	10.1
Expenditures	16,745	16,447	19,589	21,590	21,254	41,704	55,119	50,263
(Percent Change)	-	(1.8)	19.1	10.2	(1.5)	96.2	32.2	(8.8)
Fund Balance at August 31	14,505	18,724	26,073	32,100	81,712	101,976	95,915	99,316
(Percent Change)	-	29.2	39.2	23.1	154.6	24.8	(5.9)	3.5
<u>Annual Renewal Fees:</u>								
Landscape Architect	50	50	50	50	50	50	40	40
Landscape Irrigator	-	-	-	100	100	100	60	60

Through fiscal year 1977, a total of \$362,045 in net revenues was received through collecting fees authorized by the Act. These yearly totals range from a low of \$22,555 in fiscal year 1971, to a high of \$74,012, received in fiscal year 1974. The agency reports that in 1974, the number of registered landscape architects increased to 508. During fiscal year 1974, 316 landscape irrigators were registered under amendments to the Act when Senate Bill 237 created the landscape irrigator licensing functions.

Penalties collected peaked in fiscal year 1975 when \$4,427 was collected. For fiscal year 1977 this figure was \$1,934. No trends concerning penalties and delinquent registrations could be established.

Reciprocal Licensing

The data displayed below represents a count of agency files and a recapitulation of reciprocity activity reported in the agency's annual reports.

EXHIBIT I-3

<u>Fiscal</u>	<u>Number Registered</u>	<u>Collected</u>
1970	6	300
1971	8	400
1972	15	750
1973	6	300
1974	12	600
1975	16	800
1976	8	400
1977	15	750
Eight-year Totals	<u>86</u>	<u>\$4,300</u>

Personnel Costs

Agency personnel costs for the 1970 to 1977 fiscal years increased from \$8,676 to \$25,861. This increase of \$17,185, or 198 percent, was due to incremental state salary increases, and the addition of a full-time Secretary III position in fiscal year 1975.

Funds have been allocated to pay part-time and seasonal wages since fiscal



year 1970. These costs displayed in Exhibit I-4, have increased 700 percent during the eight years of operation.

EXHIBIT I-4

Agency Personnel Cost Summary

FY	Executive Secretary	Secretary	Other	Total
1970	\$ 8,250	-	\$ 426	\$ 8,676
1971	9,000	-	869	9,869
1972	9,500	-	2,232	11,732
1973	10,500	-	2,232	12,732
1974	11,000	-	3,079	14,079
1975	11,500	6,940	1,526	19,966
1976	13,100	6,480	3,785	23,365
1977	14,000	8,076	3,785	25,861

Payments of \$1,000 to the Council of Landscape Architectural Registration Boards (CLARB) were listed in the agency's annual reports for fiscal years 1975 and 1976. The yearly dues for state board membership in CLARB are \$300, according to interviews with agency staff and CLARB representatives.

The agency states that member states contributed toward the costs of an implementation study sponsored by the CLARB Foundation. The result of this participation was the "new" Uniform National Examination which includes four subject areas. All of these areas require objective responses but the two subjective portions involve the actual drawing of plans. The objective portion of the examination is forwarded to CLARB representatives for scoring and item analysis. The results are returned to the agency approximately 45 days later.

The subjective problem portion is graded by Board members and persons engaged in the occupation of landscape architecture. Professional fees expended for this purpose in fiscal year 1976 were \$1,150, and for fiscal year 1977 these fees totaled \$1,200.

## Summary

Approximately 702 landscape architects were licensed between fiscal years 1970 and 1977. Only one candidate was licensed by local examination. The number of landscape architects licensed under the "grandfather" provision of the Act was 386. Seven years of experience or a degree in landscape architecture is required, in addition to minimum passing scores, determined by CLARB, on the UNE.

Although 477 candidates were examined, only 179, or 38 percent passed and were licensed. A determination of the number of individuals qualifying by possessing degrees in landscape architecture could not be determined for any one fiscal year. The agency does not compile data on the characteristics of registrants.

The Board administers a local examination to register landscape irrigator candidates. Of the 268 candidates licensed since the first examination held in June, 1974, 180 candidates, or 67 percent attained scores qualifying them for the certificate of registration required to engage in the landscape irrigator occupation. Prior to March 1974, 312 candidates, or 74 percent, were licensed under the landscape irrigator "grandfather" provision in the Act.

Although total revenues received have increased from \$31,250 to \$54,023, or 72.9 percent, expenditures have increased from \$16,745 to \$50,263, an increase of 200.2 percent. The net result of this analysis suggests that since 1969 the Board has collected revenues of approximately \$362,045 and expended \$243,071, or 67 percent, of these revenues to administer the licensing provisions of the Act.

The fiscal year 1977 expenditures tabulation shown below categorizes these expenditures by general function and shows percent of total expenditures for each category.

EXHIBIT I-5

Board of Landscape Architects  
FY 1977 Expenditure Summary

<u>Category and Item of Expenditure</u>	<u>Amount</u>	<u>% of Total</u>
<u>Personnel</u>		
Salaries	\$25,958	51.6
Employee Benefits, Bond	900	1.8
<u>Operating Expenses</u>		
Travel	3,396	6.7
Printing, Office Supplies, Equipment	1,644	3.3
Postage	1,601	3.2
Telephone	2,681	5.3
Capital Outlay	2,387	4.7
Landscape Architect Exam (CLARB)	6,135	12.2
Professional Services (Proctors)	1,200	2.4
Miscellaneous	940	1.8
<u>Other Administrative Expenses</u>		
Per Diem	<u>3,503</u>	<u>7.0</u>
	<u>50,345</u>	<u>100.0</u>

Data Source: Annual Report, Fiscal Year 1977

The tabulation reveals that the largest board expense is personnel cost, 51.6 percent. Payments to CLARB for the UNE, used to license landscape architects, are 12.2 percent of the total expended. When combined, personnel and UNE expenditures comprise 63.8 percent of the fiscal year 1977 agency budget.

The review under this criterion also included a comparison of the average cost per license for the following agencies which have similar target populations:

EXHIBIT I-6

Average Cost Per License - FY 1977

Agency	No. Regulated	Total Expenditures*	Cost Per License
Board of Registration for Professional Engineers	31,181	\$450,688	\$14.45
Board of Architectural Examiners	5,039	\$137,345	\$27.26
Board of Registration for Public Surveyors	1,328	\$ 41,744	\$31.43
Board of Landscape Architects	960	\$ 50,622	\$52.73

\* From Comptroller's 1977 Annual Report

The fact that personnel costs constitute such a significant portion of the agency budget suggests that for the smaller licensing agency there are fewer opportunities for cost savings. Much of these costs are "overhead" costs involved in regulating the landscape architecture and landscape irrigator occupations.

## Criterion 2

An identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, the extent to which the objectives have been achieved and any activities of the agency in addition to those granted by statute and the authority for these activities.

The review under this criterion centered on an identification of the agency's statutory objectives as they related to the perceived need and the extent to which agency methods used can reasonably be expected to achieve those objectives. Statutes were reviewed to determine if objectives described in the self-evaluation report presented an accurate reflection of statutory duties. Agency viewpoints were sought to provide additional clarification and appropriate files were reviewed to collect and verify selected data presented under this criterion.

The Texas State Board of Landscape Architects was established in 1969 to license persons engaged in the occupation of landscape architecture. In 1973 the Act was amended to include the registration of individuals, corporations, partnerships or other legal entities engaged in the occupation of landscape irrigation.

Administrative procedures have been developed to provide for the secure maintenance of records of individuals who have applied to the Board for the landscape architect license or the landscape irrigator certificate of registration. Analysis of these procedures will be separated into broad categories linked to specific functions performed by the agency.

Examination. The procedures for examining candidates for licenses to engage in landscape architecture differ from those used to register landscape irrigators. To be licensed as a landscape architect, the candidate must submit an application to

the Board and a fee of \$50. He is informed of examination procedures by letter. This letter cites the enabling legislation, the fee and the tentative date of the next landscape architect examination. Inquiries may be made by telephone or in writing.

The agency states every reasonable attempt is made to identify candidates and mail applications for the examination at least 60 days prior to the examination date. The deadline for returned applications is 30 days before the date of the examination.

When the application is returned by the candidate, the agency establishes a record on the candidate and records the fee. Afterward the record is maintained on the individual throughout the licensing and annual renewal processes.

The agency states that the function of the examination is to evaluate a candidate's ability to apply theoretical training and practical experience to the performance of landscape architecture, and provide a standard basis for issuing a state license to engage in the occupation. The Act, Article 249c, V.A.C.S., states that the examination will be prepared by the members of the Board and administered at the office in Austin or such other place as the Board may designate. The Act also states that the landscape irrigator examination shall be administered at the same time and place and in the same manner as the examination for landscape architects.

Performing the landscape architect examination function, the Board has adopted the Uniform National Examination (UNE), a national examination prepared and graded, in part, by the Council of Landscape Architectural Registration Boards (CLARB).

The objectives of CLARB are: To promote high standards of practice, to foster the enactment of uniform licensing laws; to equalize and improve the standards for state registration of applicants for registration; to compile, maintain and transmit professional records to member boards for registered individuals desiring this service; and to certify records and recommend registration for individuals who meet the standards of CLARB for interstate or foreign registration.

Assistance provided the agency by CLARB is detailed. Among CLARB services are:

- a) Billing for examinations ordered before CLARB deadline;
- b) Mailing of pre-examination materials to Board;
- c) Mailing of UNE to Board;
- d) Providing methods for grading objective portion of examination;
- e) Establishing minimum examination passing levels for each section;  
and
- f) Mailing examination results to Board.

Board examination procedures and application deadlines are identical to those specified by CLARB. The examination may be given on or after the examination date specified by CLARB. The UNE costs the Board \$50, the same amount as the application fee. Annual dues paid by the Board for CLARB membership are \$300. Examination results are usually forwarded to the Board within 45 days. At that time, candidates are notified of their UNE scores.

The design and graphic solution portion of the UNE is evaluated by the Board and an appointed group of licensed landscape architects. The agency states that these procedures protect the candidate from subjective bias and assure the professional quality of the examination. The candidate may be re-examined after six months with no additional fee. Although the failure rate on this portion of the examination is high, no data could be developed on the number of individuals

examined more than one time. In fiscal year 1977, five landscape architects were paid professional fees of \$125 each to assist in grading this portion of the UNE.

The landscape irrigator examination is a local examination and the fee is \$50. Applications and fees for the examination must be submitted at least 30 days before the examination. When the fee and completed application are returned to the Board, the candidate is sent a lexicon of landscape irrigation terms commonly used, information on the time and place of the next examination, general instructions and a list of suggested publications for examination preparation. The publications list specifies study materials which may be purchased from irrigation equipment distributors and manufacturers. The prices of the suggested materials range from 50 cents for the Residential Design Guide, published by Rainbird Sprinkler Manufacturing, to \$19.50, the price of the Turf Irrigation Manual, published by Weather-Matic Division, Telsco Industries.

Although the Board states these materials are not required and they only intend the candidate is aware that the materials are available, no other study materials are recommended to the candidates.

Data on numbers of individuals examined were gathered from annual reports and data summaries received at the agency. Analysis of the data shown in Exhibit I-1 revealed that the failure rate on the UNE, the examination for landscape architecture candidates, averaged 64.1 per cent. During fiscal year 1970, the Board administered a local examination. Only four of fourteen individuals examined qualified for certification. The failure rate on this local examination was calculated to be 71.4 percent. The overall average failure rate on the one local and the successive UNE examinations was 59.8 percent.



EXHIBIT II-1

Board of Landscape Architects  
Analysis of Examination Activity  
1970-1978

FY	1970	1971	1972	1973	1974	1975	1976	1977	1978
<u>Landscape Architects:</u>									
Pass	4/29%	24/37%	8/35%	22/32%	32/46%	22/29%	32/29%	35/43%	
Fail	10/71%	40/63%	15/65%	46/68%	37/54%	55/71%	78/71%	47/57%	
TOTAL	14	64	23	68	69	77	110	82	

FY	1974	1975	1976	1977	1978
<u>Landscape Irrigators:</u>					
Pass	19/83%	36/75%	43/74%	56/55%	26/70%
Fail	4/17%	12/25%	15/26%	46/59%	11/30%
TOTAL	23	48	58	102	37

Avg. failure rate (one) 58.1%  
 Avg. failure rate (all LA exams) 59.8% (includes one local exam)  
 Avg. failure rate (LI exams) 28.6%

The local landscape irrigator examination average failure rate ranged from a low of 17.4 percent in fiscal year 1974, the first year the examination was administered, to a high of 45.1 percent in fiscal year 1977. The total average failure rate on the local landscape irrigator examination was 28.6 percent.

Section 5(a)(2) of Article 249c, V.A.C.S., says applicants who are residents of the State of Texas, citizens of the United States over the age of 21 years, who possess good moral character and have either a degree in landscape architecture from a school approved by the Board or seven years of actual experience in the office of a licensed landscape architect, may apply for examination. The Act also states these individuals shall pay the \$50 examination fee. Another provision in the Act states that the examination is to be "prepared by the members of the board and given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate. . . ."

Regarding examination of candidates for landscape irrigator certificates of registration, the Board "shall issue certificates of registration to such persons of good moral character as have, by a uniform, reasonable examination, shown themselves fit, competent and qualified to engage in the business, trade, or calling of a landscape irrigator." There are no specified educational or experience requirements. Section 5(2)(b) of the Act specifies that the "examination for landscape irrigators shall be given at the same time and place and in the same manner as an examination for landscape architects. . . ."

Policies and procedures used by the Board to receive applications, fees and statements of qualification of candidates for the landscape architect and landscape irrigator examinations are implemented generally in accordance with the provisions of the Act. Landscape architect and landscape irrigator examinations were held during the same general time period until fiscal year 1976. An examination of

landscape architecture candidates was administered at College Station, Texas, on June 16, 1976. A landscape irrigator examination administered in 1976 was held on October 20 in Austin, Texas.

In fiscal year 1977, landscape architect examinations were held in December and June. Landscape irrigator examinations held during that fiscal year were in January and May. Additionally, in fiscal year 1978, two landscape irrigator examinations were administered in October, 1977, and in January, 1978.

Analysis of CLARB examination costs identified in the agency's annual reports shows these costs:

1973	\$ 1,213	
1974	2,616	116% change
1975	3,473	32.8% change
1976	4,054	16.7% change

A determination of the relationship of these increased costs of CLARB examinations to the number of landscape architect candidates taking the UNE examination could not be made in this review.

Licensing. Licenses and certificates of registration may be renewed in July and August of each year. The annual renewal fee for the landscape architect registration was \$50 until 1976, when the Board lowered this fee to \$40. If a permit is not renewed by August 31, a delinquent renewal charge, 10 percent per month of the annual renewal fee, is authorized in the Act. On August 11, 1975, Attorney General Opinion H-664 ruled that delinquent landscape architects may not engage in the occupation unless renewal fees, with penalties, have been paid. These persons may be held in violation of the Act.

The landscape irrigator registration renewal fee was set at the maximum under the Act until this fee was also lowered in 1976 to \$60. The Act also

authorizes the 10 percent per month delinquent charge if the fee is paid after August 31. The Board does not have injunctive or enforcement powers.

Under the statute the registrant may be delinquent for one year before the certificate is cancelled and he must be requalified under Section 5 of the Act. The extent of the agency's enforcement of this provision of the Act could not be determined.

The Board, represented by its Executive Secretary, sends periodic notices to delinquent licensees, but the individual file of the licensee does not contain a chronological record of this contact. During this review, agency records showed 63 registrations were delinquent. If renewals are received by the agency and the proper amount of late penalty is not included, the renewal and the fee remitted are returned with explanation. This procedure is used to prevent the deposit of incomplete renewal fees into the operating fund.

There are no additional requirements that registrants periodically reconfirm their competence and qualification for renewal of either certificate of registration. The Board conducts no professional development activities.

Section 6 of the Act states that the Board may certify by reciprocal agreement residents of other states who were licensed in substantially the same manner and with the same requirements of landscape architectural experience or educational preparation. This provision stipulates that the same privilege of reciprocity shall be extended to landscape architects or irrigators registered in Texas by the Board.

Reciprocal registrations issued by the Board range from a low of six registrations in fiscal years 1970 and 1973, to a high of 16 in fiscal year 1975. During fiscal years 1972 and 1977, 15 registrations were issued to individuals licensed by other states.

The registration fee for reciprocal certification by the Board is \$50 for a landscape architect. The Board has not adopted reciprocity procedures for registration of landscape irrigators.

Although the agency states that CLARB membership is justified because of UNE standards for reciprocal registration in other states, interviews with a CLARB representative revealed the fact that a state board need not be a member of CLARB to use and administer the Uniform National Examination. It appears the UNE score is used by most states as the basis for extending reciprocity privileges to individuals licensed by another state board.

An individual seeking reciprocity can either request that CLARB forward his UNE records to the state board which must review his reciprocity request, or he can request his state licensing agency to send the records. CLARB representatives stated that CLARB can usually act on the reciprocity records transfer faster than a state board.

The review did not determine that CLARB membership either hampered the activities of the Board or assisted the Board in the discharge of its duties in the Act. Reciprocity in the use of the UNE may be accomplished by a state board not paying annual dues to CLARB, and membership is aimed primarily at state boards, not individual licensees. CLARB certification is available to individuals who choose to pay the related fees and provide the information for the CLARB Council Record and Certification. The summary of experience, examination and educational background contained in the Council Record is available to other states as evidence that the individual has met UNE standards, which are accepted in most states as adequate record.

## Summary

The administrative procedures and policies developed by the Board have fulfilled the requirements of the Act on examination and registration of individuals seeking certification to engage in the landscape architecture and landscape irrigator occupations. The Uniform National Examination (UNE) is used by the Board to equalize the national licensing standards and those used by Texas. The UNE is prepared and distributed by the Council of Landscape Architectural Registration Boards (CLARB), an organization of state boards and individuals who seek coordination of approaches used to license landscape architects in the United States.

The examination used by the Board to determine the competence of landscape irrigator candidates is a local examination. There are no education or experience requirements for landscape irrigator candidates.

Among the 507 landscape architect candidates examined by the Board, 179, or 35 percent have passed. Eighty-eight, or 33 percent, of landscape irrigator candidates failed the examination.

An average of 63 landscape architect candidates have been examined each fiscal year. This average is 54 for landscape irrigator candidates.

Certificates of license and registration expire on August 31 each year. Registered persons may remain delinquent for one year, but Attorney General Opinion H-664 ruled that they are in violation of Article 249c if they are engaged in the occupations during this delinquent renewal period.

### Criterion 3

An assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public.

The review under this criterion centered on analyses of the agency's regulatory functions in terms of: 1) changes over time in the restrictive nature of agency functions, as seen in the agency's statutory history; 2) significant effects of this regulation on the public and the industry; and 3) alternative methods of performing the agency's regulatory tasks. These analyses were obtained through the agency's self-evaluation report, literature concerning occupational licensing, and surveys of similar licensing functions in other states.

Evolution of Agency Functions. The following table was constructed to assist in a determination of the net effects of statutory changes associated with the Texas State Board of Landscape Architects:

<u>LEGISLATION</u>	<u>1973</u>
Senate Bill 237 (Passed)	1) Landscape irrigator license established; three landscape irrigators added to board. 2) Candidates examined on character, age competence. 3) Board authorized to adopt rules governing connections to public or private water supply by landscape irrigator. 4) Board authorized to license persons, corporations, partnerships or other legal entities engaged in landscape irrigation and yard sprinkler system installation and repair. 5) Landscape architecture and irrigation or yard sprinkler work done by owner his property exempted along with certain others who may be engaged in irrigation or yard sprinkler work incidental to their employment. They must not, however, represent themselves as landscape architects.

- 6) Board directed to hold landscape irrigator examination at same time and place as landscape architecture examination.
- 7) Chairman shall be a landscape architect.
- 8) Valid certificate of registration required of persons engaged in occupation.
- 9) Landscape irrigator examination fee established at \$50.
- 10) Reciprocity for landscape irrigators allowed.
- 11) Landscape irrigator renewal fee set at no more than \$100.
- 12) Quorum changed from 2 members to 4 members.

The net result of these amendments to the Act has been to effect licensing and annual certification renewal for persons registered to engage in the landscape irrigation occupation.

Among the agency's regulatory functions are a review of applicant qualifications for the landscape architect national examination, the UNE, and the acceptance of applications from candidates for the local landscape irrigator examination.

The Act provides that a certificate becomes delinquent if it is not renewed each August 31. Attorney General Opinion H-664, issued August 11, 1975, held that registered persons may not practice after August 31 each year unless the license is renewed. Section 5 of the Act provides that "no person shall represent himself or practice in any manner as a landscape architect. . . unless such person shall be licensed as provided herein." Attorney General Opinion H-664 further stated that Section 9 "establishes penalties for representing oneself as a landscape architect 'without being registered or exempted in accordance with the provisions of' the Act."



The Board was not assigned injunctive powers in the Act or appropriated funding to conduct enforcement or investigative activities. The agency indicates that in rare instances reported violations may be investigated by either Board members or the Executive Secretary. Specific data relating to the nature and extent of these activities could not be determined for analysis.

Significant Effects of Regulation. Materials presented in the discussion of Criteria 1 and 2 identify a pattern of regulation which has placed a consistent emphasis on standards related to entry into the occupations. In contrast, clerical functions are used to identify, and contact violators of the practice and title provisions contained in the Act. The nature and degree of activity of licensed Board members in enforcing the rulings contained in Attorney General Opinion H-664 and in collecting penalties, as defined in Section 9 of the Act, could not be determined.

The agency does, however, conduct "yellow page" research under sections of telephone directories to locate potential violators. The agency indicates that most individuals enter the registration process when they are informed of the provisions of the Act. Data was unavailable on licenses and registrations issued to persons initially found to be in violation of the Act.

Alternative Methods of Regulation. A survey of other states revealed that in eleven states members of the public are appointed to the licensing board regulating landscape architecture. Only ten states were identified which license landscape irrigators, and little information concerning organizational structures, licensing provisions and administration of the state agencies could be obtained.

The license period for landscape architects is two years in eight states and one year in 23 of the states contacted. The State of Kansas issues permanent registrations for landscape architects practicing in that state.

Sixteen state boards are funded by methods other than the collection of

licensing, examination and renewal fees. Eight boards said administrative costs **were not paid with fees collected.**

#### Summary

The Texas State Board of Landscape Architects includes members licensed by the Board. These members are given broad discretionary powers associated with determining the competence, character and occupation-related abilities of candidates desiring certificates or licenses to engage in the regulated occupations.

Although the Act says **the Board will prepare the examination**, the Uniform National Examination (UNE) processed by the Council of Landscape Architectural Registration Boards (CLARB), was used to license 38 percent of the landscape architectural candidates examined by the Board since 1969. Practicing professionals are invited to assist in grading the subjective design portion of the UNE. Five such individuals were listed in the agency's annual report. This alternative is considered a method of preventing personal bias in grading the design portions of the examination.

The Board administers a local examination for landscape irrigator candidates, which was used to register **67 per cent of the landscape irrigator candidates examined** by the Board.

**Recommendations in the agency's self-evaluation report:** 1) **amending the Act** to allow candidates 18 years or older to qualify for examination if other requirements are met, and 2) removing residency and citizenship requirements contained in Section 5 of the Act.

Other recommendations suggest that the provision allowing reexamination of failing candidates without payment of an additional fee places a financial burden on the Board. At present the examination costs the candidate the same as **the cost paid by the agency to CLARB, the national association of state licensing boards.** If

a section must be repeated by the candidate and ordered from CLARB, there is additional cost to the Board. Amounts spent by the agency in this category could not be identified, but the agency states that approximately \$5,500 has been expended for the reexamination of candidates.

The agency also says that authorizing injunctive powers to allow the Board to obtain "injunctive judicial relief from violations" was the "intent" of the Legislature when the law was enacted. This position could not be addressed in this report.

The law permits the Board to fine persons found to be engaged in the regulated occupations whose registrations are not current. The person "shall be fined not less than \$100 nor more than \$500, or be confined in jail for a period not to exceed three months, or both. Each day of such violation shall be a separate offense." By not exercising the enforcement powers in Section 9 of the Act the Board appears to have focused agency resources on the examination and certification of registration candidates, the renewal of annual registrations and the collection of fees.

#### Criterion 4

The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

The review of this criterion was directed at evaluating the agency's definition of its target population. The existence of other similar populations was explored and the extent of any overlap and duplication of services offered was analyzed. When applicable, the review also dealt with any efforts to establish coordinative relationships between agencies serving similar target groups and to minimize any duplication of services. This information was collected through discussions with agency personnel, review of statutes and rules, and the identification of other agencies with the potential ability to offer these same services.

#### Regulatory Jurisdiction

The Texas State Board of Landscape Architects is mandated the responsibility for the licensing of persons engaged in the occupation of landscape architecture and persons or business entities engaged in landscape irrigation. The agency's specific target population, therefore, includes persons seeking licensing as landscape architects and individuals or business entities seeking registration required to engage in landscape irrigation. Persons engaged in related occupations such as architects, engineers, landscape contractors, nurserymen and plumbers are implicitly included in this group along with potential registrants and applicants for temporary permits or reciprocal licenses.

Occupational regulation by the state fundamentally requires the setting of minimum standards of education or experience. It permits the collection of annual registration fees and provides a method of identifying practitioners in the occupations regulated. To the extent that these regulatory functions are performed, activities of the Texas State Board of Landscape Architects are similar to a certain degree to activities of four other agencies: Board of Architectural Examiners; Board of Registration for Professional Engineers; Board of Registration for Public Surveyors; and Board of Plumbing Examiners.

These agencies vary considerably in terms of number of registrants and staff size; however, organization and regulatory activities are quite similar. Each board is composed of members licensed to practice the occupation regulated. The Board of Plumbing Examiners, however, includes a master plumber, a journeyman plumber, a licensed architect, a licensed sanitary engineer, and two building contractors. One building designer is principally engaged in home building and the other in commercial building.

Each board's licensing functions are somehow related to national standards, with the exception of the plumbers and public surveyors. These national standards frequently determine the nature of state qualification standards, examination **procedures** and reciprocal licensing agreements with other states. **Enforcement capabilities** differ considerably **between these agencies**.

The agency states that **attempts to further define** the nature and intent of the exemption of architects from the licensing requirements contained in Article 249c have not been successful. The agency's concern involves the frequency and "incidental" nature of planting plans often included in designs and plans completed by architects. **The Act provides** that exempted persons may neither use the title **nor term landscape architect nor represent themselves to be landscape architects**

without complying with the provisions contained in the Act.

Section 1(g) of Article 249c defines landscape irrigator as a person or other legal entity duly licensed who "sells, designs, consults, installs, maintains, alters, repairs, or services any ... system including connections in and to any private or public potable water supply or water supply system." Section 4(a) provides that the Board "shall promulgate procedural rules and regulations ... to govern the conduct of its business and proceedings, and setting standards governing the connections to any public or private water supply by a landscape irrigator." Questions have been raised concerning who connects irrigation equipment to the potable water supply.

The following agreements were entered into by the Board and the Board of Plumbing Examiners in 1975 in an attempt to resolve the ambiguity of the licensing laws:

The Board of Plumbing Examiners will not attempt to require that landscape architects and irrigators making connections to public water supplies have a Plumber's license. The Board of Landscape Irrigators (sic), in return, will not attempt to require that licensed Master plumbers who, incidental to their regular business of plumbing, install a sprinkler system or irrigation system have an Irrigator's license.

Date of Statement - March 17, 1975

The Texas State Board of Landscape Architects has adopted the following position with regard to a Master Plumber installing landscape irrigation systems:

Anyone who represents himself as a Landscape Irrigator and is actively engaged in the landscape irrigation industry, is required to have the Landscape Irrigator license. If, however, a Master Plumber is asked to install a sprinkler system, and he is not actively in the landscape irrigation business and does not hold himself out to be a Landscape Irrigator, or advertise as such, then he is not required to have the Landscape Irrigator license.

Date of Statement - February 24, 1975

Attorney General Opinion H-890, November 2, 1976, ruled that the reciprocal agreements between the agencies served to limit their scopes of jurisdiction by exempting certain unlicensed persons from the statutory licensing requirements. Therefore, the agreements were held invalid. All such connections to water supplies were held to be questions of fact which depend on the circumstances of each case.

#### Consolidation Potential

Although the agency stated in the self-evaluation report that it has "no particular target population," and that this target population is mandated by neither federal nor state legislation, persons licensed and those desiring licensure by the Board comprise the target population of the agency's regulatory activities.

These activities are not unlike the activities performed by the Board of Architectural Examiners, the Board of Registration for Public Surveyors and the Board of Registration for Professional Engineers. These agencies were discussed in interviews with Board members and agency staff. Two major concerns were that the integrity and standards of the licensing functions be maintained and that these responsibilities not be subordinated to other regulatory efforts.

Since architects, land surveyors and engineers were exempted from the license requirements in the Act, it may be reasoned that, to a degree, the competencies are somehow related. It could not be determined that the agency was amenable to either consolidation option.

The agency states that the combination with landscape irrigators in 1973 improved the effectiveness of the Board by providing improved objectivity in the administration of Board operations. It should be noted that the Executive Secretary is neither a landscape architect nor a landscape irrigator. Additionally, the similarities of the occupations remain unclear.

### Required Professional Expertise

Landscape architects must either have a degree in landscape architecture or seven years of experience working under the supervision of a licensed landscape architect. Each candidate must also attain passing scores on the Uniform National Examination (UNE) which is prepared by the Council of Landscape Architectural Registration Board (CLARB) and, in part, independently machine-scored. The design section is evaluated by the Board and invited practitioners.

Uniform National Examination, a booklet offered by CLARB at a cost of \$2 to the candidate, describes the sections and format of the examination. There is no required contact between any candidate and the Board members until the day of the examination which is administered over a three-day period. Examination instruction time during the examination is set by CLARB at three and one-half hours. Detailed instructions for each portion of the UNE are given by Board members who are present at the examination site.

The one-day landscape irrigator examination is administered and graded by the Board. Seven hundred and seventy-two dollars was paid to a consultant in fiscal year 1977 to rewrite portions of the examination and maintain objectivity.

Section 5(a)(2), Article 249c stipulates that one-third of the Board shall be present at each examination held. It is also implicit that at least one member of the Board must evaluate the education and experience qualifications of landscape architects who are licensed. Finally, knowledge of the technical and practical aspects of the occupation may in certain circumstances be required during hearings conducted by the Board, as in cases involving incompetency rulings.

A review of the minutes of Board meetings, however, suggests that these certain circumstances occur infrequently. A determination that all Board members must be present during either the examination or the hearing could not be made,



given the low frequency of the need for the specific technical expertise of several Board members.

#### Summary

The Act requires that two Board members be present at each examination and that the landscape architect examination be given at the same time and in the same manner as the landscape irrigator examination. This procedure was followed by the agency only in fiscal years 1974 and 1975.

Although the Board licenses both landscape architects and landscape irrigators, the relatedness of the occupations remains unclear. The landscape irrigator examination is administered and graded locally; while the landscape architect must pass the UNE which is secured through CLARB, the national association of state landscape architectural licensing boards. Portions of the UNE are machine-scored and these scores are returned to the Board and then combined with design evaluation scores determined by the Board with the assistance of independent proctors.

The agency's regulatory functions appear to be similar to those of the Board of Registration for Professional Engineers, Board of Registration for Public Surveyors and the Board of Architectural Examiners.

### Criterion 5

Whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates.

The review under this criterion centered on statutory changes which affect the operations of the agency. In the period covering the last three legislative sessions, the review focused on both proposed and adopted changes in the law; prior to that period, the staff review was limited to only adopted changes. In analyzing these changes, the approach was taken that a statutory modification must be of clear benefit to the state's citizens to be considered to be in the interest of the public.

A major change in the regulatory functions of the Board resulted when Senate Bill 237, (Chapter 629, Acts of the Sixty-third Legislature, 1973) was passed. Under the amendments to Section 1, Article 249c, V.A.C.S., the Board was charged with establishing minimum "registration" standards for a "person, corporation, partnership, or other legal entity" maintaining a regular place of business, and who individually or through persons in his employment represents himself to the public as a landscape irrigator. The amendment added three landscape irrigators to the Board for a total membership of six.

The scope of the legislation is broad. Acts of selling, designing, consulting, installing, maintaining, altering, repairing or servicing landscape irrigation or yard sprinkler systems are specifically enumerated in the Act. In addition, "connections in and to any private or public water supply or water supply system" are included in the definition of landscape irrigator functions.

The self-evaluation report submitted by the Board indicated that the legislation was proposed by the Texas Turf Irrigators Association, the occupational group certificated under the 1973 amendments to the Act. The agency states that irrigation equipment and supply distributors also expressed concern that the irrigation market potential was substantial in the state and that registration conducted by a state board would protect the public.

The relationship between the public need for registration of irrigators and the resulting impact on the sales of equipment and supplies could not be determined. The self-evaluation report submitted by the Board raised the following point: "It should be quickly pointed out that ... (Senate Bill 237) ... was legislation primarily encouraged by the irrigation industry to impose reasonable regulation on its own activities."

The report further states that before the amendment to the Act" ... there was literally no organization or standards for the irrigation industry. It was a buyers beware type market ..."

The report also states that "the industry could not police itself because it had no identity or authority." It appears that the Board has maintained that the concern is protection of the integrity of the potable water supply by regulating the registration of landscape irrigators.

To accomplish these goals the Board attempts to determine that persons engaged in the installation, servicing and design of landscape irrigation and yard sprinkler systems have demonstrated their competence to engage in the occupation either by: 1) working with registered landscape irrigators, 2) reviewing study materials sold by irrigation equipment distributors and manufacturers and listed by the Board in correspondence to applicants concerning preparation for the

examination, or 3) showing themselves to be "fit, competent and qualified" by passing the local examination administered by the Board.

House Bill 2081, introduced during the Sixty-fifth Legislature was supported by the American Society of Landscape Architects, the Texas Society of Landscape Architects and the Texas Turf Irrigators Association. This bill was not adopted by the Legislature. This proposed amendment to Article 249c included major changes in the laws affecting both occupations, including:

- 1) the statutory exemption from the Act of the irrigation and yard sprinkler system work done by a master plumber which could reasonably be considered incidental to his regular business of plumbing;
- 2) compensation of Board members for actual expenses up to \$75 per day, exclusive of travel;
- 3) lowering age requirement to 18 years;
- 4) changing the language relating to the applicant's "taking" the required landscape architecture examination so that the term "passing" was substituted;
- 5) changing the \$50 fee for the landscape architecture examination so that the fee was "not to exceed \$100, as set by the board";
- 6) changing the provisions requiring examinations to be prepared by the Board so that examinations could be purchased;
- 7) eliminating the provision allowing the failing candidate to be reexamined one time after six months without payment of additional fee;
- 8) including the age of 18 years as an additional requirement for the landscape irrigator candidate;
- 9) adding the term "practice" to the list of acts considered to be in violation of Article 249c;
- 10) raising the annual fee for the landscape architect certificate from between \$10 and \$50 to a sum set by the Board, not to exceed \$100;

- 11) increasing the late renewal penalty fee from 10 percent per month after August 31 of each year to one-half the annual renewal fee, with a 60-day limit placed on the period of time the renewal could remain delinquent before the license would be suspended; and
- 12) giving the Board injunctive powers over persons engaged in either occupation who were not licensed or registered by the Board under the Act.

Specific language was included to permit the holder of a landscape irrigator certificate of registration to connect a landscape irrigation system to a private, public, raw, or potable water supply without having to comply with other regulatory laws of this state or with rules of any other state regulatory agency. The apparent intent of this provision was to legally exempt the landscape irrigator from the requirements of the provisions contained in Section 14 of the Plumbing License Law of 1947, Article 6243-101, V.A.C.S.

Section 4(a) of Article 249c was amended in 1973 to broaden the powers of the Texas State Board of Landscape Architects. Before the amendment, the Board could "promulgate procedural rules and regulations only ... to govern the conduct of its business...." According to Attorney General Opinion Number H-960, the Board's authority to set standards to govern the connections to any public or private water supply system was clearly authorized by the Legislature in the 1973 amendments.

Plumbing, as defined in both Attorney General Opinion Number H-495, issued January 15, 1975, before the amendment to Article 249c was passed by the Legislature, and also defined in Section 2(a)(2) of Article 6243-101, V.A.C.S., the Plumbing License Law, includes the "installation, repair and maintenance of piping, fixtures, appurtenances and appliances in and about buildings where a person or persons live, work or assemble, for a supply of gas, water, or both, or disposal of waste water or sewage."

It was therefore ruled in Attorney General Opinion H-960, issued March 18, 1977, that where the connection of pipes to a water supply is clearly taking place "in and about buildings where a person or persons live, work or assemble," this connection is defined as plumbing. Subject to certain unspecified exceptions, only a licensed plumber may make such connections under this ruling.

The opinion also ruled that where the installation is not "in and about" such buildings it may come within the definition of landscape irrigation as defined in Article 249c. Again, subject to certain unspecified exceptions, it was ruled that only a landscape irrigator may make the connection.

Having considered the apparent overlapping nature of the statutory definitions, Attorney General Opinion H-960 further ruled that Section 12 of Article 249c does not allow any construction by the Texas State Board of Landscape Architects of the Act which would repeal or amend any laws affecting or regulating any other profession. The Opinion ruled that the definition of plumbing contained in Section 2(a)(2) of Article 6243-101, V.A.C.S., the Plumbing License Law of 1947, must predominate.

#### Summary

The only legislation passed by the Legislature was Senate Bill 237, Acts of the Sixty-third Legislature, 1973, amending sections of Article 249c. This amendment added to the Board three landscape irrigators who were charged with establishing licensing standards for the registration of landscape irrigators. The net change resulted in increased revenues and expanded regulatory duties for the Board. The protection of the water supply is the basic need cited by the agency for registering landscape irrigators. Although Senate Bill 237 established no experience or education requirements for entry into the occupation, the Board was given the power to examine candidates to determine a reasonable level of competence. competence.

### Criterion 6

The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

The review under this criterion centered on: 1) an identification of the type and frequency of complaints received by the agency, 2) the adequacy of administrative procedures used to process these complaints, and 3) the appropriateness and patterns of actions taken to address the complaints. Information for the review was obtained by interviewing agency staff, examining complaint files, and analyzing data presented in the agency's self-evaluation report.

The Board is not assigned injunctive enforcement powers under the provisions of the Act. This lack of specific statutory authority to initiate legal action against persons who have not been licensed by the Board as a landscape architect or registered as a landscape irrigator has caused considerable Board concern.

Data contained in the self-evaluation report did not provide a complete description of Board procedures followed when complaints or reports of violations are received. Interviews with agency staff allowed discussion of internal procedures used to dispose of these complaint issues. These administrative procedures were not on file at the agency in writing and available for public inspection.

In the absence of statutory enforcement provisions, the Board has focused on methods of identifying individuals and business entities which appear to be engaged in the regulated occupations without a record on file at the agency which identifies the individual, the owner, or the employee who holds a license or certificate of registration. It appears that one license is required for each individual or firm engaged in the occupation.

These violations are usually identified by "yellow page research" conducted periodically by the staff. Calls and letters are occasionally received from licensed individuals who have not been able to locate the name and license or registration number in the roster of licensed and registered individuals published by the Board in November 1975.

The data submitted in the self-evaluation report is summarized in the tabulation below:

<u>Type of Complaint</u>	<u>Fiscal Years</u>		
	<u>1975</u>	<u>1976</u>	<u>1977</u>
Landscape Architects			
Agency - vs - Licensee	1	1	0
Agency - vs - Unlicensed Individual	26	76	34
Landscape Irrigators			
Agency - vs - Licensee	1	0	0
Agency - vs - Unlicensed Individual	82	127	68

The Board states that most of these complaints concern individuals or businesses advertised in the yellow pages of city telephone directories. A review of correspondence files indicated that contact is maintained with directory advertising personnel who are encouraged to consult the Board on licensed and registered and unlicensed and unregistered persons since these individuals are representing themselves as landscape architects or landscape irrigators.

No determination could be made on the success of these staff efforts to identify potential violators of the provisions of the Act. There was no evidence that a system of coordination had been established between the Board and telephone advertising managers. Board staff said individuals and firms are often offered a package deal -- a free listing under a related heading if more than a basic



listing is purchased in the telephone directories.

This research is conducted each month according to the "1977 Monthly Activities of the Board" listed in the discussion of regulatory activities conducted by the Board (Criterion 3).

An inspection of complaint files revealed that letters are occasionally written to the Board by individuals who identify themselves as Board licensees or registrants. Although the agency did not include data on this source of complaints in the self-evaluation report, the review of agency complaint files did not indicate inappropriate Board activity under this category.

Interviews with staff also revealed that licensed or registered persons often compare information provided by contractors to the 1975 roster to see if the person cited as the landscape architect or landscape irrigator has been licensed by the Board. Again, none of this data was included under Criterion 6 of the self-evaluation report.

The following form letters were provided during a discussion with agency staff concerning complaint disposition policies and procedures used by the Board:

- 1) An October 1976 "information release" above the signature of the Executive Secretary which explained the requirement under the provisions of Article 249c, V.A.C.S., as amended in 1973, that:
  - a) After August 27, 1973, individuals could neither practice nor represent themselves to be a landscape architect or landscape irrigator without being registered under the provisions of the Act.
  - b) An imprint of the seal shall be affixed to all landscape planting plans and construction documents along with the signature on the original copy of the plans. The absence of the seal imprint shall be considered as evidence in violation of the Act.

- c) Although certain exempted professionals need not comply with the provisions of the Act while they are engaged in the ordinary and proper scope of their respective professions, they may not represent themselves as landscape architects unless they are licensed as such, and that landscape planting plans and construction documents prepared by architects or other individuals or firms not registered are in violation of the Act.
- 2) A form letter sent to individuals and firms identified by "yellow page research" requesting immediate notification of the Board regarding name and registration numbers of registered landscape architects. The addressee was informed that the "title is illegal and should not be used." A copy of the Act, as amended by Senate Bill 237, was enclosed for information purposes, with verbal reference to Section 9. A time limit of 30 days was designated as response time before the matter was to be referred to the Attorney General "for handling." The letter was signed by the Executive Secretary.
- 3) A copy of an affidavit which was seldom used since the Board did not, according to the Office of the Attorney General, have adequate power to enforce. This form was to be signed by one identified as a violator of the Act and notarized.
- 4) A letter acknowledging receipt of a report concerning a possible violation of Senate Bill 237, Article 249c, Vernon's Texas Civil Statutes, Chapter 457, Acts of the Sixty-first Legislature, Regular Session.
- 5) An "Alleged Violation Report" citing the date, name of the accused, evidence, name of person reporting, occupation concerned.

The agency states that these are procedures used to identify violators and to **inform** them of **state registration requirements**.

The **complaint files were inspected to determine** general condition and to compare agency records to the data submitted in the self-evaluation. Forms are maintained which provide the name of the potential violator, evidence, source of the violation report, date initiated and date resolved by Board action. Although the **count for selected fiscal years on the list did not tally with the** data cited in the

self-evaluation report, the records appear to be fairly complete for some fiscal years. A file is begun on each potential violation, and maintained in a separate file area.

#### Summary

The agency has developed procedures for receiving and resolving complaints. Most of the complaints processed were registered against unlicensed individuals using the title landscape architect or landscape irrigator. Considerable staff time is devoted to inspection of advertising media to identify unlicensed individuals engaged in the occupations.

Only three complaints were registered by the agency against licensees during the three fiscal years covered by the review. Although there was no record of complaints from the public, many of the complaints recorded were filed against unlicensed individuals and were reported by persons licensed by the Board. Whether this is a result of a lack of public dissatisfaction with services provided by those engaged in the regulated occupations or a lack of public knowledge concerning Board responsibilities could not be determined. The Board has never exercised its authority to revoke or suspend the registration of a licensee.

### Criterion 7

The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The review under this criterion began with a determination of the statutory requirements on public participation in the agency's enabling law and general statutes. The agency's procedures were reviewed to determine compliance with these statutes. The agency files and self-evaluation report were reviewed to determine the nature and extent of public participation and any results which might be attributed to public participation.

Agency policies on public participation in the rule-making process were not on record in agency files or referenced in their general rules of practice and procedure. Attempts to inform the public of agency regulatory activities and regulatory functions could not be documented. Interviews with agency staff showed requests for information are promptly processed, and all information maintained in the agency files is available to the public for inspection. The qualification and examination records of licensed individuals are not considered open to the public.

Agency correspondence files were reviewed to determine the nature and frequency of requests for information concerning Board activities. These requests typically were questions on license requirements, reciprocity procedures or sources of information about the occupations.

The self-evaluation report proposed that seminars on preparation for the Uniform National Examination could be of public benefit if this activity is coordinated with educational institutions. However, there was no indication that such seminars would involve members of the public not seeking registration to

engage in the occupations regulated by the Board.

No public information functions of the agency encourage public involvement in the activities of the Board. Copies of newsletters on file were at one time sent to licensees and association members and appeared to center on issues relating only to the occupations.

Considerable attention has been focused on potential violators of the provisions of the Act. Registered persons and association members have been encouraged to assist the agency in performing investigations to develop complaints against unlicensed individuals. While the Board performs no ongoing public relations functions, information on Board policies, operations and procedures is available only in English.

The Board published an annual roster of registered individuals until fiscal year 1977. The self-evaluation report said printing costs could not be justified because of limited agency resources. Interviews with agency staff revealed that the roster was sent to anyone who requested a copy. Copies were sent routinely to other municipalities, local governmental entities and libraries for use to identify individuals registered with the Board.

Registered persons receiving copies of the roster were encouraged to report persons engaged in the occupations who were not on the roster of registered individuals. A supplement to the 1975 roster was mailed.

Accuracy of the data submitted relating to Board compliance with the Open Meetings Act was determined by an inspection of agency files. Notices filed for all Board meetings appeared to comply with the provisions of the Open Meetings Act, but no attempts to encourage public participation were identified.

The self-evaluation report stated that there is little public participation in Board meetings and a review of Board meeting minutes revealed that persons in

attendance were in the regulated occupations. Additionally, interviews with agency staff disclosed that copies of the Act are provided on request to the public.

### Summary

There has been little public concern for, or participation in, the activities of the Board. The agency has consistently given adequate public notice of scheduled Board meetings. Although written policies regarding public participation were not on file at the agency, there was no indication of inappropriate Board activity during the review under this criterion.

The agency routinely responds to requests for information, but these requests are generally limited to inquiries concerning information about the regulated occupations, licensing requirements or reciprocity procedures.

### Criterion 8

The extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals.

The review under this criterion centered on an identification of agency Equal Employment Opportunity reporting requirements and policies regarding the rights and privacy of individuals. Federal and state statutes were reviewed; agency policies and procedures were documented; and appropriate agency files were inspected to determine the adequacy of records maintained to verify the data presented under this criterion. The Governor's Personnel and Equal Employment Opportunity Office was consulted. The general procedures regarding personnel actions and protection of the rights and privacy of individuals were examined through interviews and inspection of files.

A review of agency files revealed there was affirmative action correspondence with the Governor's Personnel and Equal Employment Opportunity Office in fiscal year 1976. Although white females hold two full-time and one part-time positions, vacancies are posted as required according to the self-evaluation report and contact with the Governor's Office. The secretary and part-time bookkeeper positions were filled during fiscal year 1978 and the Board is presently interviewing candidates for the Executive Secretary position. An agency Affirmative Action Plan was not on file and the agency says there are no reporting requirements. Agency hiring is not under the Merit System Council. A documented employee grievance procedure was not available.

In summary, the review indicated that no affirmative action or rights and privacy complaints have been received, but no written Board policies were on file at the agency.

### Criterion 9

The extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees.

The review under this criterion centered on an identification of documented agency practices and procedures regarding the filing of individual financial statements and affidavits with the Office of the Secretary of State. The provisions of the statute (Article 6252-9b, V.A.C.S.) were reviewed and agency interpretations of the nature and intent of the provisions of the Act were sought. Records maintained by the agency and the Secretary of State under the authority of the legislation concerned with conflict of interest were reviewed to determine the extent of agency compliance with the letter and intent of the Act and to verify the accuracy of the data presented under this criterion. In addition, inquiries were directed to selected areas where conflicts of interest might exist that could not be discerned through review of official documents.

#### Administrative Procedures

Although the agency does not enforce a formal set of rules governing potential conflicts of interest, administrative procedures do satisfy reasonable requirements given the small number of agency staff. Each employee and each new member of the Board receives and signs for a copy of requirements set out in the General Appropriations Act under Article V, Section 4 (Political Aid and Legislative Influence Prohibited) which is then included in the personnel file. One exception to this policy was identified upon review of agency files. There was no indication that copies of Article 6252-9b, Standards of Conduct of State Officers and Employees, are on file at the agency or that they have been discussed with the agency staff.



### Financial Statement

In compliance with Article 6252-9b, Section 3, the Executive Secretary of the agency has filed with the Secretary of State a financial statement which is current and appears to satisfy legal requirements. Based on the information contained in the statement, there is no indication of any potential conflict of interest.

### Affidavits

Affidavits indicating the nature of the business interests and the manner in which these interests might relate to the agency's regulatory activities are on file for three of the six members of the Board. Since all Board members must be licensed by the Board, five are somehow involved in ownership or partial ownership of a business offering landscape architectural or landscape irrigation services. One Board member, a landscape architect, is a retired Texas A&M University professor. Another Board member, a landscape irrigator, is licensed by the only irrigation equipment and supply manufacturer in Texas. This manufacturer provides, at cost, Turf Irrigation Manual, one of the six booklets on the suggested list of publications recommended by the Board as examination study material. The agency informs the applicant that local distributors may be contacted for further information concerning where these publications may be purchased.

The agency does not conduct periodic reviews of compliance with the conflict of interest requirements contained in Article 6252-9b, but during interviews with agency staff it was determined that no staff persons have had any apparent connections with the regulated occupations.

### Criterion 10

The extent to which the agency complies with the Open Records Act and the Open Meetings Act.

Examination of elements under this criterion was separated into components dealing with responsibilities for making agency documents available to the public under open records requirements and responsibilities for public notification of proposed agency actions. In the open records area statutes were reviewed in relation to written or unwritten policies used by the agency. Where written policies did not exist, interviews were conducted to determine actual compliance. Materials contained in the self-evaluation report were verified and open records decisions were reviewed. Open meetings compliance was verified by review of agency written and unwritten policies to determine if they accurately reflected statutory requirements. Interviews with agency personnel were conducted in instances where written policies were lacking or information contained in minutes of meetings was incomplete or unclear. Records in the Office of the Secretary of State were reviewed on a selected basis to determine compliance with posting and informational requirements.

The agency has established procedures for maintaining examination, experience and qualification records of individuals registered under the Act. Files are maintained on persons registered, declined registration, awarded reciprocal registration or issued temporary permits to engage in the regulated occupations.

The records are categorized by function and all information is classified as public information. The agency has classified as confidential files containing the examinations, examination results, and individual records of qualifications, as authorized by Article 6252 - 17.

Information on the manner in which a registered individual qualified for registration with the Board may be provided by the agency. But only the registered individual and a third party who accompanies him has access to the individual's personal file.

There was no record of the agency refusing public access to information requested. Agency policies were identified by interviews with staff and verification of information submitted in the self-evaluation report. Records of sales of roster lists and mailing labels in 1975 and 1976 showed the charge is five cents per name. This was verified by a review of annual reports and inspections of agency records.

The number of Board meetings ranged from nine in 1970 to four in 1973. The Board was certifying landscape architects with three years of practice under the "grandfather" provisions of the Act in 1970. The only agency attempts to notify the public and registered persons of planned Board meetings were identified in the self-evaluation report as notices sent to occupational association officers, association committee members and interested licensees. Data in the self-evaluation report was verified by inspection of agency files.

It appears that the posting of notices with the Texas Register Division of the Office of the Secretary of State was in compliance with requirements of the Open Meetings Act. Since the first public notice was filed in December 1974, 16 notices have been filed. Seven meetings were held while examinations were administered. One hearing on a violation was held in fiscal year 1977 and two meetings were held in other cities in the state. The meeting in San Antonio in July 1976, was posted as an emergency meeting. The meeting in College Station in June 1976, included the landscape architect examination. The agency reports location of adequate space for candidates to design planting plans, a required portion of the examination, has

been a problem. Facilities of Texas A&M University were used at the June 1976 exam.

Minutes of Board meetings are filed with the Executive and Legislative Budget Offices and in the Legislative Reference Library. These minutes and general correspondence with candidates and registrants are maintained in note-Summary

The agency had no written policies regarding open meetings or open records, but the internal procedures used by the staff appear to satisfy the intent of applicable laws. All information on file at the agency is considered available to the public except the individual examination and qualification records of licensees. There was no record of the agency refusing public access to information requested during the period covered by the review.

### Criterion 11

The impact in terms of federal intervention of loss of federal funds if the agency is abolished.

The licensing of occupations is a function which the federal government has left to the states to initiate. No federal standards were identified which would affect the licensing of landscape architects and landscape irrigators in the State of Texas if the agency is abolished.

Federal funds are not involved in the administration of the Act as administration costs related to the licensing and regulatory functions of the Board are financed through the collection of fees deposited in Fund 069, the Texas State Board of Landscape Architects and Irrigators Fund.

## CONCLUSIONS

Historically, the practice of landscape architecture, as a recognized occupation, began to develop in the United States in the early 1900's. Today, landscape architecture generally encompasses the arrangement of plantings, landforms and structures for human comfort, convenience and enjoyment. The landscape architect designs these planting plans and drawings and also may provide consultation or supervision of work performed which will improve the basic visual appeal of residential, commercial and public "green spaces." The end result of these functional yet attractive shade structures, visual barriers, retaining walls, terraces, parking areas and plant groupings is to improve the value and natural beauty of the land. Examples of planting designs of landscape architects may be found in public parks, commercial office complexes and lawns of private residences.

The first state to require registration of landscape architects was California in 1954. By the early 1960's five states required registration of landscape architects and by 1973, 27 states had passed licensing laws. Texas began licensing landscape architects in 1969 when House Bill 1111 created the Texas State Board of Landscape Architects. Under the provisions of this Act, a person may take the examination to become a registered landscape architect if he has a degree in landscape architecture or seven years experience in the office of a licensed landscape architect.

The nature of the activity of landscape architecture affected the target population of persons regulated under the Texas law. Provisions of the law currently exempt architects, engineers, nurserymen, building designers and land surveyors from its operation.

In addition to the licensing of landscape architects, the Board was given the responsibility for the licensing and regulation of landscape irrigators in 1973. These

individuals plan and supervise the installation of irrigation and yard sprinkler systems which vary in design and complexity and are used to provide regulated moisture control for lawns, gardens and other areas of vegetation. These systems are often used to allow automatically timed early morning watering capabilities which appear to permit a more efficient and economical use of water resources. The time and labor savings afforded by the installation of these systems usually **offset** the system cost while **improving the** value of the **property**.

Landscape irrigation **licensing boards** have been **established in** approximately five states. In Texas, there are no educational or experience prerequisites to **registration**.

The review **contained in this** report has centered on the areas of **licensing, enforcement and administration** to assess the result of the exercise of the regulatory powers of the Board on the objectives which were originally conceived under the statute. For purposes of presentation, the conclusions contained in this section of the evaluation report will be structured to separately discuss issues relating to the **licensing, enforcement and administration objectives** for each occupation.

### Licensing

The achievement of the landscape irrigator's goal of "protecting the potable water supply" is accomplished through the basic functions of **licensing, enforcement and administration**.

Under the **licensing function** the Board attempts, through examination and testing, to provide qualified individuals in sufficient amount to meet public demand for services. In this regard, when the Board began its regulation in 1973, 312 landscape irrigators were licensed under the grandfather clause contained in the



legislation. During these four years the Board has licensed approximately 36 landscape irrigators per year through examination. At this rate, it will take the Board four years to reach the numerical level of 312 licensed under the grandfather clause. An additional four years will be needed to exceed this number by 50 percent. A total of eight years to produce a numerical level of practitioners which significantly exceeds the group holding a license under the grandfather provisions seems to cast doubt on the attainment of one of the Board's basic objectives. This uncertainty could be offset by the qualifications of individuals being licensed through examination. However, there are no experience or educational requirements for landscape irrigators at the present time. This factor, coupled with the small growth in persons seeking to be licensed, would lead to a conclusion that even if the length of time to produce licensees in sufficient numbers is not unreasonable, there is no real assurance that the numbers of licensees produced will be qualified in the usual sense of experience or education.

Even if an individual is licensed through examination, to achieve the overall goal of protecting the potable water supply, the licensee must proceed through another occupational group. A series of Attorney General's opinions in 1975 and 1977 dealing with responsibilities of licensed plumbers and licensed landscape irrigators stated that a licensed plumber must make all connections to the water supply. This seriously undercuts the objective because each situation must be decided on the particular facts, and thus all occupational activity becomes conditioned upon the approval of a licensed plumber.

The achievement of the objective of licensing qualified landscape architects who have demonstrated the required competencies is accomplished through the examination of the candidate's theoretical and practical landscape architectural expertise. Under this aspect of the licensing function the Board attempts, through

examination and testing, to provide qualified landscape architects in sufficient numbers to meet the public demand for landscape architecture services. In this regard, the 179 landscape architects licensed by the Board through the examination process comprise only thirty percent of the total number of landscape architects licensed in the eight years of regulatory activity conducted by the Board.

Of the 390 candidates registered by August 31, 1970, 386 were licensed under the grandfather clause contained in the legislation. The Board has licensed approximately 22 landscape architects per year through examination and only one individual has been licensed under the seven-year experience provision contained in the legislation. At this rate, it will take the Board nine years for the number of candidates licensed by examination to reach the numerical level of 386 licensed under the grandfather clause. An additional eight years will be needed to exceed this number by 50 percent. A total of seventeen years to produce a numerical level of practitioners which significantly exceeds the number of landscape architects licensed under the grandfather provisions seems to cast doubt on the attainment of one of the Board's basic objectives.

Thus the small growth in the number of persons seeking to be licensed annually, when coupled with the fact that seventy percent of the landscape architects licensed were licensed under the grandfather clause leads to further discussion of the Board's approach to achieve the licensing objective. There are no national standards set by the Council of Landscape Architectural Registration Boards (CLARB) which must be met before the candidate can take the Uniform National Examination (UNE) which is administered by the Board. The qualification standards requiring that candidates have a degree or seven years experience under a licensed landscape architect are state standards contained in the Act. These

standards are increased further, however, by the Board's requirement that the candidate pass the UNE, which is said to be the national uniform qualification standard for reciprocity.

Given the low average of 11 reciprocal licenses issued by the Board per year, the fact that 64 percent of the landscape architects licensed were licensed under the grandfather clause and the 60 percent failure rate on the examination, the correspondence between annual reciprocity activity and the failure rate for the UNE is unclear. The agency states that most failing candidates fail the subjective design portion of the UNE which is graded by the Board and invited proctors.

This analysis suggests that the Board's examination procedures do not provide an alternative to the UNE, a state licensing standard which has not been met by 64 percent of the landscape architect candidates. This factor, coupled with the small growth in persons seeking to be licensed, would lead to a conclusion that the agency's examination and registration procedures may be considered restrictive.

#### Enforcement

The achievement of the goal of "protecting the public" by enforcing the provisions of the Act is accomplished through the enforcement function.

Under the enforcement function the Board attempts, through clerical activities performed by the clerical staff, to annually renew licenses and process complaints. The Act provides that certificates of registration expire August 31 each year, but failure to renew annually as required does not deprive the licensee of the right of renewal for one year. If the renewal is not effected during the one year period the license can be delinquent, it may then be revoked.

The unnecessary complications produced by the one-year delinquency period hamper the effectiveness of the enforcement objective. Enforcement efforts are

hampered further by the necessity of carrying these functions out with essentially a clerical staff. Specific violation and penalty powers of the Board are not clearly defined in the Act. Although 127 letters were written in terms of violations identified in fiscal year 1976, the effects of these letters could not be determined because the agency keeps no statistical information of this nature.

### Administration

To carry out this function, the Board employs the usual kinds of administrative techniques to process payroll, accumulate management information, issue licenses, process renewals and maintain registrant files. In this regard, as touched on above, most of the files and the kinds of information collected can have a definite effect on the determination of the success or failure of both the licensing and enforcement functions, particularly in regard to enforcement. This becomes apparent since the management system, in terms of information produced, has serious deficiencies. The agency is unable to clearly identify delinquent licensees through its present record keeping process. Basic counts of landscape architect and landscape irrigator licenses issued as a result of violation letters written are not compiled. Both of these deficiencies impact the kind and quality of enforcement applied by the agency. A review of the agency's filing system indicated certain deficiencies with regard to organization and accessibility. For example, delinquent files are not kept under a separate category from the files of current and active registrants, and adequate records are not maintained of delinquent notices sent to individual licensees. As a result, there is a lack of timely certificate status determination which suggests that documentation concerning enforcement activities is inadequate. A review of agency clerical procedures revealed the lack of adequate documentation outlining filing and records maintenance procedures. The need for such documentation as reference material and as an aid in verifying agency records is evident. Even more important, however, is the need for

delineation of clearly defined areas of staff responsibility.

Overall, the review indicated that serious difficulties exist in the attainment of agency objectives.

Should the Legislature decide to continue the regulation of landscape architects and landscape irrigators, several steps could be taken to strengthen the achievement of stated objectives:

THE LEGISLATURE COULD MERGE THE FUNCTIONS OF THE BOARD OF LANDSCAPE ARCHITECTS WITH THOSE OF OTHER SIMILAR LICENSING AGENCIES.

By merging the regulation of licensed landscape architects and landscape irrigators with the regulatory activities of other design occupations certain results would occur which could improve the effectiveness of the licensing and regulation of licensed landscape architects and landscape irrigators. Such a reorganization could result in a more efficient allocation of the state's resources by eliminating the almost total duplication of administrative processes associated with the present licensing of these occupations. Such a consolidation would also contribute to minimizing the fiscal and management problems associated with small regulatory agencies. The correspondence of the areas of knowledge and expertise is implicit due to the fact that certain related design occupations were exempted from the licensing provisions of the Act. The combination of resources effected by consolidation of regulation would also result in proportionately greater resources becoming available to address the problems associated with the achievement of enforcement objectives. It is anticipated that clearly defined violation and penalty powers would be developed and that the ambiguity concerning landscape irrigator connections to the potable water supply would be resolved.

Additionally, other steps should be considered regardless of the organizational form through which the functions are carried out:

THE LEGISLATURE SHOULD CONSIDER RESOLVING THE AMBIGUITY REGARDING WHICH OCCUPATION, PLUMBERS OR LANDSCAPE IRRIGATORS, CAN MAKE THE CONNECTION TO THE POTABLE WATER SUPPLY.

By clearly defining the occupational privileges of landscape irrigators, the present ineffectiveness associated with the licensing function would be eliminated.

CLEARLY DEFINED VIOLATION AND PENALTY POWERS OF THE BOARD SHOULD BE DEVELOPED TO ALLOW THE TIMELY DISPOSITION OF COMPLAINTS AND VIOLATIONS.

Based on the past record of enforcement activities initiated by the agency against individuals held to be unlicensed and engaged in the regulated occupations, and given the complications associated with the penalty provisions contained in the statute, the implementation of this recommendation would provide an effective means of meeting the enforcement objective.

ADMINISTRATIVE PROCEDURES SHOULD BE STRENGTHENED TO IMPROVE INFORMATION USED FOR DECISION-MAKING AND THE REVIEW OF REGULATORY ACTIVITIES.

Due to the lack of information available concerning the nature and extent of agency regulatory activities, documentation of data received during the review was often not possible. Clearly defined, written policies and procedures regarding licensing, enforcement and administrative tasks performed would allow timely verification of the accuracy of data used in decision-making.