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end

P.L.2015, CHAPTER 169, *approved December 9, 2015*  
Senate, No. 2234 (*First Reprint*)

1 AN ACT <sup>1</sup>~~abolishing~~ renaming<sup>1</sup> the Landscape Irrigation  
2 Contractors Examining Board and transferring its functions,  
3 supplementing Title 52 of the Revised Statutes, and <sup>1</sup>~~repealing~~  
4 amending<sup>1</sup> P.L.1991, c.27 <sup>1</sup>~~and section 10 of P.L.2009, c.229~~<sup>1</sup>.  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 <sup>1</sup>**[**1. As used in this act:

10 "Board" means the Board of Landscape Irrigation Contractors  
11 established pursuant to section 3 of this act.

12 "Business permit" means the permit issued by the board to a  
13 person allowing the person to engage in the business of landscape  
14 irrigation contracting, pursuant to the provisions of this act.

15 "Commissioner" means the Commissioner of Community  
16 Affairs.

17 "Department" means the Department of Community Affairs.

18 "Landscape irrigation contracting" means the construction,  
19 repair, maintenance, improvement and alteration of any portion of a  
20 landscape irrigation system, including required wiring within that  
21 system and connection to the required power supply and the  
22 installation and connection to a public or private water supply  
23 system under the terms and conditions of a contract.

24 "Landscape irrigation contractor" means a natural person who is  
25 certified to do landscape irrigation contracting.

26 "Landscape irrigation contractor certificate" or "certificate"  
27 means the certificate issued by the board pursuant to the provisions  
28 of this act.

29 "Landscape irrigation system" means any assemblage of  
30 components, materials or special equipment which is designed,  
31 constructed and installed for controlled dispersion of water from  
32 any safe and suitable source, including properly treated wastewater,  
33 for the purpose of irrigating landscape vegetation or the control of  
34 dust and erosion on landscaped areas, including integral pumping  
35 systems or integral control systems for manual, semi-automatic or  
36 automatic control of the operation of these systems.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly amendments adopted in accordance with Governor's  
recommendations June 25, 2015.

1 "Permittee" means a person who has secured a business permit to  
2 engage in the business of landscape irrigation contracting, pursuant  
3 to the provisions of this act.

4 "Person" means any natural person, corporation, company,  
5 partnership, firm, association, and any owner or operator of a  
6 permittee.】<sup>1</sup>

7  
8 <sup>1</sup>【2. a.】 1.<sup>1</sup> (New section) The Landscape Irrigation Contractors  
9 Examining Board created by P.L.1991, c.27 (C:45:5AA-1 et seq.)  
10 within the Department of Environmental Protection <sup>1</sup>【is abolished  
11 as an agency in the Executive Branch of State Government and】<sub>2</sub>  
12 together with<sup>1</sup> all of its functions, powers <sup>1</sup><sub>2</sub> and duties <sup>1</sup><sub>2</sub> are  
13 hereby <sup>1</sup>【transferred to】 continued as the Board of Landscape  
14 Irrigation Contractors in<sup>1</sup> the Department of Community Affairs.

15 <sup>1</sup>【b. The offices and terms of the members, assistants, and  
16 deputies of the Landscape Irrigation Contractors Examining Board  
17 are hereby terminated.

18 c. Regulations of the Landscape Irrigation Contractors  
19 Examining Board concerning its organization, function, practice  
20 and procedure are void.】<sup>1</sup> Whenever in any law, rule, regulation,  
21 order, reorganization plan, contract, document, judicial or  
22 administrative proceeding, or otherwise, reference is made to the  
23 Landscape Irrigation Contractors Examining Board, the same shall  
24 mean and refer to the Board of Landscape Irrigation Contractors.

25 <sup>1</sup>【d. This act shall not affect the tenure, compensation, and  
26 pension rights, if any, of the holder of a position not specifically  
27 abolished herein in office upon the effective date of this act, nor  
28 alter the term of a member of a board, commission, or public body,  
29 not specifically abolished herein, in office on the effective date of  
30 this act, or require the reappointment thereof.

31 e. This act shall be subject to the provisions of the "State  
32 Agency Transfer Act," P.L.1971, c.375 (C:52:14D-1 et seq.).

33 f. The responsibility of all cases pending on the effective date  
34 of this act in which the Landscape Irrigation Contractors Examining  
35 Board is a party handled by offices being abolished shall be  
36 assumed by the Board of Landscape Irrigation Contractors, unless  
37 the Commissioner of Community Affairs determines that there are  
38 not sufficient resources to continue any particular litigation.

39 g. Acts and part of acts inconsistent with any of the provisions  
40 of this act are, to the extent of that inconsistency, superseded and  
41 repealed.】 Whenever any law grants the Department of  
42 Environmental Protection, or the commissioner thereof, review,  
43 control, or power over or relating to the Landscape Irrigation  
44 Contractors Examining Board, that review, control, or power shall  
45 be exercised by the Department of Community Affairs, or the  
46 commissioner thereof.<sup>1</sup>

<sup>1</sup>2. Section 5 of P.L.1991, c.27 (C.45:5AA-5) is amended to read as follows:

1     5. a. There is established in the Department of **【Environmental**  
2 **Protection】** Community Affairs the **【Landscape Irrigation**  
3 **Contractors Examining】** Board of Landscape Irrigation Contractors,  
4 which shall consist of seven members, as follows: the  
5 Commissioner of **【Environmental Protection】** Community Affairs,  
6 or the commissioner's designated representative, who shall serve ex  
7 officio; five public members who shall be landscape irrigation  
8 contractors and residents of the State; and one public member who  
9 shall be a licensed professional engineer or certified landscape  
10 architect. Each of the public members shall be appointed by the  
11 Governor with the advice and consent of the Senate, for terms of  
12 three years. Each of these members shall hold office for the term of  
13 the appointment and until a successor is appointed and qualified.  
14 Any vacancy in the membership occurring other than by expiration  
15 of a term shall be filled in the same manner as the original  
16 appointment, but for the unexpired term only.

17     b. The members of the board shall elect from among their  
18 number a chairperson, who shall schedule, convene, and chair board  
19 meetings, and a vice-chairperson who shall act as chair in the  
20 chairperson's absence.

21     c. The powers of the board are vested in the members thereof  
22 in office, and a majority of the total authorized membership of the  
23 board is required to exercise its powers at any meeting thereof;  
24 provided however, that if a board member has resigned or otherwise  
25 vacated his or her membership appointment before the expiration of  
26 his or her term, or if a board member does not serve after the  
27 expiration of his or her term pending the appointment of a  
28 successor, then, until such vacancies are filled, a majority of the  
29 currently serving membership of the board is required to exercise its  
30 powers at any meeting thereof.

31     d. The members of the board shall serve without compensation,  
32 but the board may, within the limits of funds appropriated or  
33 otherwise made available to it, reimburse members for actual  
34 expenses necessarily incurred in the discharge of their official  
35 duties.

36     e. The board shall meet twice annually, and at such other times  
37 as may be necessary, at a place provided by the department.<sup>1</sup>  
38 (cf: P.L.2009, c.229, s.4)

39  
40     <sup>1</sup>3. (New section) This act shall be subject to the provisions of  
41 "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).  
42 All records, equipment and other personal property, appropriations,  
43 and any balances of funds shall be transferred to the Department of  
44 Community Affairs pursuant to the State Agency Transfer Act."<sup>1</sup>

<sup>1</sup>3.a. There is established in the Department of Community Affairs the Board of Landscape Irrigation Contractors, which shall consist of seven members, as follows: the Commissioner of Community Affairs, or the commissioner's designated representative, who shall serve ex officio; five public members who shall be landscape irrigation contractors and residents of the State; and one public member who shall be a licensed professional engineer or licensed landscape architect. Each of the public members shall be appointed by the Governor with the advice and consent of the Senate, for terms of three years. Each of these members shall hold office for the term of the appointment and until a successor is appointed and qualified. Any vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only.

1     b. The members of the board shall elect from among their  
2 number a chairperson, who shall schedule, convene, and chair board  
3 meetings, and a vice-chairperson, who shall act as chair in the  
4 chairperson's absence.

5     c. The powers of the board are vested in the members thereof  
6 in office, and a majority of the total authorized membership of the  
7 board is required to exercise its powers at any meeting thereof;  
8 provided however, that if a board member has resigned or otherwise  
9 vacated his membership appointment before the expiration of his  
10 term, or if a board member does not serve after the expiration of his  
11 term, or if a board member does not serve after the expiration of his  
12 term pending the appointment of a successor, then, until those  
13 vacancies are filled, a majority of the currently serving membership  
14 of the board is required to exercise its powers at any meeting  
15 thereof.

16     d. The members of the board shall serve without compensation,  
17 but the board may, within the limits of funds appropriated or  
18 otherwise made available to it, reimburse members for actual  
19 expenses necessarily incurred in the discharge of their official  
20 duties.

21     e. The board shall meet twice annually, and at other times as  
22 may be necessary, at a place provided by the department. **】**<sup>1</sup>

23

24     <sup>1</sup>4.a. No person shall advertise, enter into or engage in the  
25 business of landscape irrigation contracting unless the person has  
26 first secured a business permit from the board and that person or an  
27 officer, partner or employee who is or will be actively engaged in  
28 the business for which a business permit is sought has obtained a  
29 landscape irrigation contractor certificate from the board in  
30 accordance with the provisions of this act, and that certified  
31 landscape irrigation contractor shall assume full responsibility for  
32 inspection and supervision of all landscape irrigation contracting  
33 work to be performed by the permittee. If a permittee or business

1 permit applicant employs more than one certified landscape  
2 irrigation contractor, the permittee or business permit applicant  
3 shall designate which certified landscape irrigation contractor shall  
4 assume full responsibility for inspection and supervision of all  
5 landscape irrigation contracting work to be performed by the  
6 permittee. Any single act or transaction, including the advertising  
7 of available services, shall constitute engaging in the business of  
8 landscape irrigation contracting. A certified landscape irrigation  
9 contractor shall not be entitled to qualify more than one person for a  
10 business permit.

11 The provisions of this subsection shall not apply to any  
12 newspaper or any digital news website owned, controlled, or  
13 operated by a newspaper.

14 b. The following are exempt from the certificate requirement  
15 imposed by this act:

16 (1) Officers, employees, and duly authorized representatives of  
17 the United States, the State, or any political subdivision thereof  
18 performing work on the property of the public entity;

19 (2) Vendors of landscape irrigation components, materials, or  
20 equipment who perform only such functions as delivery, rendering  
21 of advice or assistance in the installation or normal warranty service  
22 or exchange of defective or damaged goods;

23 (3) Contractors engaged in the design, fabrication, installation  
24 or construction of irrigation apparatus, or irrigation equipment of  
25 any type which is to be used solely for agricultural purposes in the  
26 production of harvestable and saleable vegetative or animal  
27 products;

28 (4) Plumbing contractors as defined by section 2 of P.L.1968,  
29 c.362 (C.45:14C-2); and

30 (5) Employees engaged in landscape irrigation contracting for a  
31 permittee which has at least one certified landscape irrigation  
32 contractor.

33 c. If a landscape irrigation system is connected to a potable  
34 water supply, the landscape irrigation contractor's connection is to  
35 begin at the downstream side of a properly installed backflow  
36 prevention device as required by the Plumbing Subcode of the  
37 Uniform Construction Code adopted pursuant to section 5 of the  
38 "State Uniform Construction Code Act," P.L.1975, c.217  
39 (C.52:27D-123).

40 d. (1) Landscape contractors are exempt from obtaining a  
41 certificate as provided in this act when replacing sprinkler heads  
42 damaged during lawn mowing or grounds maintenance or when  
43 making minor incidental repairs to sprinkler piping damaged during  
44 landscape construction.

45 (2) The exemption provided in paragraph (1) of this subsection  
46 shall not apply to the installation of automatic controllers, electric  
47 or hydraulic control valves, drip irrigation systems and micro-

1 irrigation systems, or to the performance of irrigation system  
2 service or maintenance.

3 e. Golf course employees performing work on landscape  
4 irrigation systems on the golf course where they are currently  
5 employed, are exempt from obtaining a certificate as provided in  
6 this act.

7 f. A business permit shall not be required in connection with  
8 landscape irrigation contracting performed by an employee of a  
9 community association for the community association's landscape  
10 irrigation system. For purposes of this subsection, "community  
11 association" means a condominium, homeowner, fee simple,  
12 cooperative or other community association.

13 g. Nothing in this act shall be construed to prevent individuals  
14 licensed or certified in this State under any other law from engaging  
15 in the profession for which they are licensed or certified.】<sup>1</sup>

16  
17 <sup>1</sup>【5.A person seeking certification as a landscape irrigation  
18 contractor shall apply therefor on forms prescribed and provided by  
19 the board, and pay the application fee established by the board. In  
20 addition to any other information or documents that may be  
21 required by the board, each applicant shall submit satisfactory  
22 evidence that the applicant is at least 18 years of age, has no  
23 unresolved violations with the board and has a minimum of three  
24 years' experience within the last 15 years in the field of landscape  
25 irrigation.】<sup>1</sup>

26  
27 <sup>1</sup>【6.The board shall:  
28 a. Review the qualifications of an applicant for certification as  
29 a landscape irrigation contractor;  
30 b. Insure the proper conduct and standards of examinations for  
31 the certification of landscape irrigation contractors;  
32 c. Issue and renew certificates pursuant to this act, as  
33 appropriate;  
34 d. Refuse to issue or renew or shall suspend or revoke a  
35 certificate issued under this act pursuant to section 9 of this act;  
36 e. Maintain a registry of landscape irrigation contractor  
37 certificates which shall record the name and address of the  
38 contractor, the date the certificate was issued, and the number of the  
39 certificate;  
40 f. Require continuing education for certified landscape  
41 irrigation contractors as provided in section 8 of this act;  
42 g. Review applications for a business permit;  
43 h. Issue a business permit to a person engaged in the business  
44 of landscape irrigation contracting and define any restrictions or  
45 requirements regarding the use of that permit;  
46 i. Allow a person to continue to engage in landscape irrigation  
47 contracting for a period of up to 180 calendar days after the death,  
48 disability or cessation of employment of the responsible certificate



1 holder who qualified the person for a business permit when the  
2 board is notified within 30 days of such an occurrence;

3 j. Refuse to issue or renew a business permit or suspend or  
4 revoke a business permit in accordance with section 9 of this act;

5 k. Establish procedures for the registry of a business permit for  
6 each person engaged in the business of landscape irrigation  
7 contracting;

8 l. Maintain a registry of landscape irrigation contracting  
9 business permits which shall include the permittee's name, trade  
10 name, business permit number, federal and State tax identification  
11 numbers, landscape irrigation contractor's certificate name and  
12 certification number, street address and mailing address of the  
13 permittee, phone number of the permittee, and other information the  
14 board deems necessary;

15 m. Adopt, pursuant to the "Administrative Procedure Act,"  
16 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to carry  
17 out the provisions of this act; and

18 n. Adopt, pursuant to the "Administrative Procedure Act,"  
19 P.L.1968, c.410 (C.52:14B-1 et seq.), fees for examinations,  
20 applications and renewals of certificates or business permits, and  
21 administrative costs associated with verifying continuing education  
22 requirements. These fees shall be prescribed or changed to the  
23 extent necessary to defray the expenses incurred by the board in the  
24 performance of its duties but shall not be fixed at a level that will  
25 raise amounts in excess of the amount estimated to be so  
26 required.】<sup>1</sup>

27  
28 <sup>1</sup>【7.a. The board shall develop an examination to evaluate the  
29 knowledge, ability, and fitness of applicants to perform as  
30 landscape irrigation contractors and for the certification thereof and  
31 shall administer these examinations at least semi-annually at times  
32 and places to be determined by the board. The board shall provide  
33 adequate written notice of the time and place of the examination.  
34 An applicant who fails an examination may not retake the  
35 examination sooner than six months after the initial examination.  
36 The board shall issue a certificate to an applicant who successfully  
37 passes the examination and otherwise meets the standards and  
38 qualifications established by the board.

39 b. Each initial certificate issued pursuant to this act shall expire  
40 on January 31 of the second calendar year following issuance. All  
41 certificates issued thereafter shall remain valid for a period of two  
42 years and shall expire on January 31 of the second calendar year. A  
43 new certificate issued any time after the regular January 31 date of  
44 issuance shall remain valid until the regular January 31 date of  
45 expiration.

46 c. A person may seek renewal of a certificate upon submission  
47 of a renewal application, proof of having obtained any required

1 continuing education credits and payment of the renewal fee  
2 established by the board.

3 d. If a renewal application and fee are not received by the  
4 board, the certificate shall expire, except that a person may renew a  
5 certificate within two years of its expiration upon payment of an  
6 appropriate fee to be set by the board. A new certificate, issued  
7 pursuant to the provisions of this act, shall be required of a person  
8 who fails to renew a certificate within two years of its expiration.

9 e. Each application for a business permit or its renewal shall be  
10 accompanied by proof of liability insurance, and workers'  
11 compensation insurance if workers' compensation insurance is  
12 required by law, and the appropriate fee. The applicant or permittee  
13 shall notify the board of any insurance changes.

14 f. The board may, upon payment of appropriate fees, grant  
15 landscape irrigation contractors certificates without examination or  
16 upon partial examination to applicants licensed or certified by other  
17 states; provided that New Jersey landscape irrigation contractors are  
18 granted reciprocity by those states and those states' standards are  
19 equal or comparable to those of New Jersey.

20 g. Certificates and permits issued by the Landscape Irrigation  
21 Contractors Examining Board pursuant to P.L.1991, c.27  
22 (C.45:5AA-1 et seq.) prior to the effective date of this act shall  
23 remain in effect until issued or renewed by the board pursuant to  
24 this act.】<sup>1</sup>

25

26 <sup>1</sup>【8.a. The board shall establish standards for continuing  
27 education for landscape irrigation contractors as a condition of  
28 certification renewal for certificates issued under its jurisdiction.  
29 The standards shall concern the subject matter and the number and  
30 type of continuing education credits to be required.

31 b. The board shall approve education programs relevant to  
32 landscape irrigation and water conservation and designate by  
33 regulation the number of credits to be given for continuing  
34 education.

35 c. The board shall approve other equivalent educational  
36 programs including, but not limited to, programs provided by  
37 educational institutions, irrigation associations and other relevant  
38 professional and technical associations, as well as relevant trade  
39 groups, and shall establish procedures for the issuance of credit  
40 upon the satisfactory completion of these programs.

41 d. The board shall waive continuing education requirements  
42 under this section on an individual basis for reasons of certified  
43 illness, undue hardship, disability, retirement, or other good  
44 cause.】<sup>1</sup>

45

46 <sup>1</sup>【9.a. The board may refuse to admit a person to an  
47 examination, or may refuse to issue or renew, or may suspend or  
48 revoke any certificate or business permit issued by the board

1 pursuant to this act upon proof that the applicant or holder of the  
2 certificate or business permit:

3 (1) Has obtained a certificate or business permit or authorization  
4 to sit for an examination, as the case may be, through fraud,  
5 deception, or misrepresentation;

6 (2) Has engaged in the use or employment of dishonesty, fraud,  
7 deception, misrepresentation, false promise or false pretense;

8 (3) Has engaged in gross negligence or gross incompetence;

9 (4) Has engaged in repeated acts of negligence or incompetence;

10 (5) Has engaged in occupational misconduct as may be  
11 determined by the board;

12 (6) Has been convicted of any crime involving moral turpitude  
13 or any crime relating adversely to the activity regulated by the  
14 board. For the purpose of this paragraph a plea of guilty, non vult,  
15 nolo contendere or any other similar disposition of alleged criminal  
16 activity shall be deemed a conviction;

17 (7) Has had the authority to engage in the activity regulated by  
18 the board revoked or suspended by any other state, agency or  
19 authority for reasons consistent with this section;

20 (8) Has violated or failed to comply with the provisions of this  
21 act;

22 (9) Is incapable, for medical or any other good cause, of  
23 discharging the functions of a certificate holder in a manner  
24 consistent with the public's health, safety and welfare; or

25 (10) Has failed to comply with the continuing education  
26 requirements as provided in section 8 of this act.

27 b. The board shall afford a landscape irrigation contractor or  
28 person holding a business permit an opportunity for hearing before  
29 a certificate or business permit is revoked. The board shall afford a  
30 landscape irrigation contractor or person holding a business permit  
31 an opportunity for hearing after issuing an order to suspend a  
32 certificate or business permit, issued pursuant to section 11 of this  
33 act.】<sup>1</sup>  
34

35 <sup>1</sup>【10. a. If any person violates any provisions of this act, or any  
36 code, rule, regulation, or order adopted or issued pursuant to this  
37 act, the board may institute a civil action in a court of competent  
38 jurisdiction for injunctive or any other appropriate relief to prohibit  
39 and prevent a violation or violations and the court may proceed in  
40 the action in a summary manner.

41 b. If any person violates the provisions of this act or any code,  
42 rule, regulation or order adopted or issued pursuant to this act, the  
43 board may assess a civil administrative penalty of not more than  
44 \$2,500 for the first offense and not more than \$5,000 for the second  
45 and each subsequent offense. If the violation is of a continuing  
46 nature, each day during which it continues shall constitute an  
47 additional, separate, and distinct offense. No civil administrative

1 penalty shall be levied except upon an administrative order issued  
2 pursuant to section 11 of this act.

3 c. The board is authorized and empowered to compromise and  
4 settle any claim for a penalty in an amount the board determines is  
5 appropriate and equitable under all circumstances.

6 d. Any person who violates a provision of this act or any code,  
7 rule, regulation, or order adopted or issued pursuant to this act, or a  
8 court order issued pursuant to subsection a. of this section, or who  
9 fails to pay a civil administrative penalty in full pursuant to  
10 subsection b. of this section, is subject, upon order of the court, to a  
11 civil penalty of not more than \$2,500 for the first offense and not  
12 more than \$5,000 for the second and each subsequent offense.

13 e. If the violation is of a continuing nature, each day during  
14 which the violation continues, or each day in which the civil  
15 administrative penalty is not paid in full, constitutes an additional,  
16 separate, and distinct offense. Any penalty imposed under this  
17 section may be recovered with costs in a summary proceeding  
18 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
19 c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal  
20 court shall have jurisdiction to enforce the "Penalty Enforcement  
21 Law of 1999" in connection with this act.】<sup>1</sup>

22

23 <sup>1</sup>【11. a. Should the board have cause to believe that any person  
24 is in violation of any provision of this act or rules and regulations  
25 promulgated pursuant to this act, the board may initiate an  
26 investigation. If upon investigation the board determines that there  
27 has been a violation of the provisions of this act or rules and  
28 regulations promulgated pursuant to this act, the board shall be  
29 authorized to:

30 (1) issue a letter of warning, reprimand, or censure with regard  
31 to any act, conduct, or practice which in the judgment of the board  
32 upon consideration of all relevant facts and circumstances does not  
33 warrant an initiation of formal action;

34 (2) order any person violating any provision of this act or rules  
35 and regulations promulgated pursuant to this act to cease or desist  
36 from future violations or to take other affirmative corrective action  
37 as may be necessary with regard to any act or practice found  
38 unlawful by the board;

39 (3) order any person found to have violated any provision of this  
40 act or rules and regulations promulgated pursuant to this act to  
41 restore any person for whom landscape irrigation contracting work  
42 was done to his position prior to performance of the work;

43 (4) assess a civil administrative penalty in accordance with  
44 section 10 of this act;

45 (5) Bring a civil action for injunctive or any other appropriate  
46 relief to prohibit and prevent such violation or violations in  
47 accordance with section 10 of this act;

1 (6) Bring a civil action for a civil penalty in accordance with  
2 section 10 of this act; or

3 (7) revoke or suspend a certificate or business permit pursuant  
4 to section 9 of this act.

5 The use of any of the remedies specified under this section shall  
6 not preclude use of any other remedy specified.

7 b. Any person to which an order or assessment of civil  
8 administrative penalty or a notice of revocation of a certificate or  
9 business permit is issued has 20 days from the receipt of the order  
10 to deliver to the board a written request for a hearing. Upon receipt  
11 of that request, the board shall determine whether to conduct the  
12 hearing itself or refer the matter to the Office of Administrative  
13 Law, which shall assign an Administrative Law Judge to conduct a  
14 hearing in the form of a contested case pursuant to the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
16 seq.). If the matter is referred to the Office of Administrative Law,  
17 the board shall affirm, reject, or modify the decision within 45 days  
18 of receipt of the Administrative Law Judge's initial decision by  
19 issuing its own final decision. The board's action shall be  
20 considered the final agency action for the purposes of the  
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 seq.), and shall be subject only to judicial review as provided in the  
23 Rules of Court.

24 c. If no hearing is requested, an order becomes a final order  
25 upon the expiration of the 20-day period. This final order shall be  
26 considered the final agency action for the purposes of the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), and shall be subject only to judicial review as provided in the  
29 Rules of Court. Payment of an administrative penalty is due when a  
30 final order is issued or when the order becomes a final order.  
31 Pending the determination by the board and upon application by a  
32 person to whom an order or notice of revocation is issued, the board  
33 may stay operation of an order upon terms and conditions it deems  
34 proper.】<sup>1</sup>

35  
36 <sup>1</sup>【12. The issuance of a certificate by the board shall authorize  
37 any certificate holder to perform landscape irrigation contracting in  
38 any municipality, county or other political subdivision of the State,  
39 and no further examination or special license shall be required of  
40 the certificate holder, except business licenses, permit fees, and any  
41 other standard licenses and fees as may be required of any person  
42 doing business within the jurisdiction of the political subdivision.】<sup>1</sup>

43  
44 <sup>1</sup>【13. The following are repealed:  
45 P.L.1991, c.27 (C.45:5AA-1 et seq.); and  
46 Section 10 of P.L.2009, c.229 (C.45:5AA-7.1).】<sup>1</sup>

<sup>1</sup>**[14.] 4.**<sup>1</sup> This act shall take effect on <sup>1</sup>**[July 1, 2015]** the first day of the sixth month after enactment<sup>1</sup>.

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Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs.

# SENATE, No. 2234

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 19, 2014

**Sponsored by:**

**Senator SAMUEL D. THOMPSON**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman ROBERT D. CLIFTON**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman JASON O'DONNELL**

**District 31 (Hudson)**

**SYNOPSIS**

Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/30/2015)**

1 AN ACT abolishing the Landscape Irrigation Contractors Examining  
2 Board and transferring its functions, supplementing Title 52 of  
3 the Revised Statutes, and repealing P.L.1991, c.27 and section 10  
4 of P.L.2009, c.229.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. As used in this act:

10 "Board" means the Board of Landscape Irrigation Contractors  
11 established pursuant to section 3 of this act.

12 "Business permit" means the permit issued by the board to a  
13 person allowing the person to engage in the business of landscape  
14 irrigation contracting, pursuant to the provisions of this act.

15 "Commissioner" means the Commissioner of Community  
16 Affairs.

17 "Department" means the Department of Community Affairs.

18 "Landscape irrigation contracting" means the construction,  
19 repair, maintenance, improvement and alteration of any portion of a  
20 landscape irrigation system, including required wiring within that  
21 system and connection to the required power supply and the  
22 installation and connection to a public or private water supply  
23 system under the terms and conditions of a contract.

24 "Landscape irrigation contractor" means a natural person who is  
25 certified to do landscape irrigation contracting.

26 "Landscape irrigation contractor certificate" or "certificate"  
27 means the certificate issued by the board pursuant to the provisions  
28 of this act.

29 "Landscape irrigation system" means any assemblage of  
30 components, materials or special equipment which is designed,  
31 constructed and installed for controlled dispersion of water from  
32 any safe and suitable source, including properly treated wastewater,  
33 for the purpose of irrigating landscape vegetation or the control of  
34 dust and erosion on landscaped areas, including integral pumping  
35 systems or integral control systems for manual, semi-automatic or  
36 automatic control of the operation of these systems.

37 "Permittee" means a person who has secured a business permit to  
38 engage in the business of landscape irrigation contracting, pursuant  
39 to the provisions of this act.

40 "Person" means any natural person, corporation, company,  
41 partnership, firm, association, and any owner or operator of a  
42 permittee.

43  
44 2. a. The Landscape Irrigation Contractors Examining Board  
45 created by P.L.1991, c.27 (C:45:5AA-1 et seq.) within the  
46 Department of Environmental Protection is abolished as an agency  
47 in the Executive Branch of State Government and all of its



1 functions, powers and duties are hereby transferred to the  
2 Department of Community Affairs.

3 b. The offices and terms of the members, assistants, and  
4 deputies of the Landscape Irrigation Contractors Examining Board  
5 are hereby terminated.

6 c. Regulations of the Landscape Irrigation Contractors  
7 Examining Board concerning its organization, function, practice  
8 and procedure are void. Whenever in any law, rule, regulation,  
9 order, reorganization plan, contract, document, judicial or  
10 administrative proceeding, or otherwise, reference is made to the  
11 Landscape Irrigation Contractors Examining Board, the same shall  
12 mean and refer to the Board of Landscape Irrigation Contractors.

13 d. This act shall not affect the tenure, compensation, and  
14 pension rights, if any, of the holder of a position not specifically  
15 abolished herein in office upon the effective date of this act, nor  
16 alter the term of a member of a board, commission, or public body,  
17 not specifically abolished herein, in office on the effective date of  
18 this act, or require the reappointment thereof.

19 e. This act shall be subject to the provisions of the "State  
20 Agency Transfer Act," P.L.1971, c.375 (C:52:14D-1 et seq.).

21 f. The responsibility of all cases pending on the effective date  
22 of this act in which the Landscape Irrigation Contractors Examining  
23 Board is a party handled by offices being abolished shall be  
24 assumed by the Board of Landscape Irrigation Contractors, unless  
25 the Commissioner of Community Affairs determines that there are  
26 not sufficient resources to continue any particular litigation.

27 g. Acts and part of acts inconsistent with any of the provisions  
28 of this act are, to the extent of that inconsistency, superseded and  
29 repealed.

30

31 3. a. There is established in the Department of Community  
32 Affairs the Board of Landscape Irrigation Contractors, which shall  
33 consist of seven members, as follows: the Commissioner of  
34 Community Affairs, or the commissioner's designated  
35 representative, who shall serve ex officio; five public members who  
36 shall be landscape irrigation contractors and residents of the State;  
37 and one public member who shall be a licensed professional  
38 engineer or licensed landscape architect. Each of the public  
39 members shall be appointed by the Governor with the advice and  
40 consent of the Senate, for terms of three years. Each of these  
41 members shall hold office for the term of the appointment and until  
42 a successor is appointed and qualified. Any vacancy in the  
43 membership occurring other than by expiration of a term shall be  
44 filled in the same manner as the original appointment, but for the  
45 unexpired term only.

46 b. The members of the board shall elect from among their  
47 number a chairperson, who shall schedule, convene, and chair board

1 meetings, and a vice-chairperson, who shall act as chair in the  
2 chairperson's absence.

3 c. The powers of the board are vested in the members thereof  
4 in office, and a majority of the total authorized membership of the  
5 board is required to exercise its powers at any meeting thereof;  
6 provided however, that if a board member has resigned or otherwise  
7 vacated his membership appointment before the expiration of his  
8 term, or if a board member does not serve after the expiration of his  
9 term, or if a board member does not serve after the expiration of his  
10 term pending the appointment of a successor, then, until those  
11 vacancies are filled, a majority of the currently serving membership  
12 of the board is required to exercise its powers at any meeting  
13 thereof.

14 d. The members of the board shall serve without compensation,  
15 but the board may, within the limits of funds appropriated or  
16 otherwise made available to it, reimburse members for actual  
17 expenses necessarily incurred in the discharge of their official  
18 duties.

19 e. The board shall meet twice annually, and at other times as  
20 may be necessary, at a place provided by the department.

21

22 4. a. No person shall advertise, enter into or engage in the  
23 business of landscape irrigation contracting unless the person has  
24 first secured a business permit from the board and that person or an  
25 officer, partner or employee who is or will be actively engaged in  
26 the business for which a business permit is sought has obtained a  
27 landscape irrigation contractor certificate from the board in  
28 accordance with the provisions of this act, and that certified  
29 landscape irrigation contractor shall assume full responsibility for  
30 inspection and supervision of all landscape irrigation contracting  
31 work to be performed by the permittee. If a permittee or business  
32 permit applicant employs more than one certified landscape  
33 irrigation contractor, the permittee or business permit applicant  
34 shall designate which certified landscape irrigation contractor shall  
35 assume full responsibility for inspection and supervision of all  
36 landscape irrigation contracting work to be performed by the  
37 permittee. Any single act or transaction, including the advertising  
38 of available services, shall constitute engaging in the business of  
39 landscape irrigation contracting. A certified landscape irrigation  
40 contractor shall not be entitled to qualify more than one person for a  
41 business permit.

42 The provisions of this subsection shall not apply to any  
43 newspaper or any digital news website owned, controlled, or  
44 operated by a newspaper.

45 b. The following are exempt from the certificate requirement  
46 imposed by this act:

1 (1) Officers, employees, and duly authorized representatives of  
2 the United States, the State, or any political subdivision thereof  
3 performing work on the property of the public entity;

4 (2) Vendors of landscape irrigation components, materials, or  
5 equipment who perform only such functions as delivery, rendering  
6 of advice or assistance in the installation or normal warranty service  
7 or exchange of defective or damaged goods;

8 (3) Contractors engaged in the design, fabrication, installation  
9 or construction of irrigation apparatus, or irrigation equipment of  
10 any type which is to be used solely for agricultural purposes in the  
11 production of harvestable and saleable vegetative or animal  
12 products;

13 (4) Plumbing contractors as defined by section 2 of P.L.1968,  
14 c.362 (C.45:14C-2); and

15 (5) Employees engaged in landscape irrigation contracting for a  
16 permittee which has at least one certified landscape irrigation  
17 contractor.

18 c. If a landscape irrigation system is connected to a potable  
19 water supply, the landscape irrigation contractor's connection is to  
20 begin at the downstream side of a properly installed backflow  
21 prevention device as required by the Plumbing Subcode of the  
22 Uniform Construction Code adopted pursuant to section 5 of the  
23 "State Uniform Construction Code Act," P.L.1975, c.217  
24 (C.52:27D-123).

25 d. (1) Landscape contractors are exempt from obtaining a  
26 certificate as provided in this act when replacing sprinkler heads  
27 damaged during lawn mowing or grounds maintenance or when  
28 making minor incidental repairs to sprinkler piping damaged during  
29 landscape construction.

30 (2) The exemption provided in paragraph (1) of this subsection  
31 shall not apply to the installation of automatic controllers, electric  
32 or hydraulic control valves, drip irrigation systems and micro-  
33 irrigation systems, or to the performance of irrigation system  
34 service or maintenance.

35 e. Golf course employees performing work on landscape  
36 irrigation systems on the golf course where they are currently  
37 employed, are exempt from obtaining a certificate as provided in  
38 this act.

39 f. A business permit shall not be required in connection with  
40 landscape irrigation contracting performed by an employee of a  
41 community association for the community association's landscape  
42 irrigation system. For purposes of this subsection, "community  
43 association" means a condominium, homeowner, fee simple,  
44 cooperative or other community association.

45 g. Nothing in this act shall be construed to prevent individuals  
46 licensed or certified in this State under any other law from engaging  
47 in the profession for which they are licensed or certified.

1       5. A person seeking certification as a landscape irrigation  
2 contractor shall apply therefor on forms prescribed and provided by  
3 the board, and pay the application fee established by the board. In  
4 addition to any other information or documents that may be  
5 required by the board, each applicant shall submit satisfactory  
6 evidence that the applicant is at least 18 years of age, has no  
7 unresolved violations with the board and has a minimum of three  
8 years' experience within the last 15 years in the field of landscape  
9 irrigation.

10

11       6. The board shall:

12       a. Review the qualifications of an applicant for certification as  
13 a landscape irrigation contractor;

14       b. Insure the proper conduct and standards of examinations for  
15 the certification of landscape irrigation contractors;

16       c. Issue and renew certificates pursuant to this act, as  
17 appropriate;

18       d. Refuse to issue or renew or shall suspend or revoke a  
19 certificate issued under this act pursuant to section 9 of this act;

20       e. Maintain a registry of landscape irrigation contractor  
21 certificates which shall record the name and address of the  
22 contractor, the date the certificate was issued, and the number of the  
23 certificate;

24       f. Require continuing education for certified landscape  
25 irrigation contractors as provided in section 8 of this act;

26       g. Review applications for a business permit;

27       h. Issue a business permit to a person engaged in the business  
28 of landscape irrigation contracting and define any restrictions or  
29 requirements regarding the use of that permit;

30       i. Allow a person to continue to engage in landscape irrigation  
31 contracting for a period of up to 180 calendar days after the death,  
32 disability or cessation of employment of the responsible certificate  
33 holder who qualified the person for a business permit when the  
34 board is notified within 30 days of such an occurrence;

35       j. Refuse to issue or renew a business permit or suspend or  
36 revoke a business permit in accordance with section 9 of this act;

37       k. Establish procedures for the registry of a business permit for  
38 each person engaged in the business of landscape irrigation  
39 contracting;

40       l. Maintain a registry of landscape irrigation contracting  
41 business permits which shall include the permittee's name, trade  
42 name, business permit number, federal and State tax identification  
43 numbers, landscape irrigation contractor's certificate name and  
44 certification number, street address and mailing address of the  
45 permittee, phone number of the permittee, and other information the  
46 board deems necessary;

1 m. Adopt, pursuant to the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to carry  
3 out the provisions of this act; and

4 n. Adopt, pursuant to the "Administrative Procedure Act,"  
5 P.L.1968, c.410 (C.52:14B-1 et seq.), fees for examinations,  
6 applications and renewals of certificates or business permits, and  
7 administrative costs associated with verifying continuing education  
8 requirements. These fees shall be prescribed or changed to the  
9 extent necessary to defray the expenses incurred by the board in the  
10 performance of its duties but shall not be fixed at a level that will  
11 raise amounts in excess of the amount estimated to be so required.

12

13 7. a. The board shall develop an examination to evaluate the  
14 knowledge, ability, and fitness of applicants to perform as  
15 landscape irrigation contractors and for the certification thereof and  
16 shall administer these examinations at least semi-annually at times  
17 and places to be determined by the board. The board shall provide  
18 adequate written notice of the time and place of the examination.  
19 An applicant who fails an examination may not retake the  
20 examination sooner than six months after the initial examination.  
21 The board shall issue a certificate to an applicant who successfully  
22 passes the examination and otherwise meets the standards and  
23 qualifications established by the board.

24 b. Each initial certificate issued pursuant to this act shall expire  
25 on January 31 of the second calendar year following issuance. All  
26 certificates issued thereafter shall remain valid for a period of two  
27 years and shall expire on January 31 of the second calendar year. A  
28 new certificate issued any time after the regular January 31 date of  
29 issuance shall remain valid until the regular January 31 date of  
30 expiration.

31 c. A person may seek renewal of a certificate upon submission  
32 of a renewal application, proof of having obtained any required  
33 continuing education credits and payment of the renewal fee  
34 established by the board.

35 d. If a renewal application and fee are not received by the  
36 board, the certificate shall expire, except that a person may renew a  
37 certificate within two years of its expiration upon payment of an  
38 appropriate fee to be set by the board. A new certificate, issued  
39 pursuant to the provisions of this act, shall be required of a person  
40 who fails to renew a certificate within two years of its expiration.

41 e. Each application for a business permit or its renewal shall be  
42 accompanied by proof of liability insurance, and workers'  
43 compensation insurance if workers' compensation insurance is  
44 required by law, and the appropriate fee. The applicant or permittee  
45 shall notify the board of any insurance changes.

46 f. The board may, upon payment of appropriate fees, grant  
47 landscape irrigation contractors certificates without examination or  
48 upon partial examination to applicants licensed or certified by other

1 states; provided that New Jersey landscape irrigation contractors are  
2 granted reciprocity by those states and those states' standards are  
3 equal or comparable to those of New Jersey.

4 g. Certificates and permits issued by the Landscape Irrigation  
5 Contractors Examining Board pursuant to P.L.1991, c.27  
6 (C.45:5AA-1 et seq.) prior to the effective date of this act shall  
7 remain in effect until issued or renewed by the board pursuant to  
8 this act.

9  
10 8. a. The board shall establish standards for continuing  
11 education for landscape irrigation contractors as a condition of  
12 certification renewal for certificates issued under its jurisdiction.  
13 The standards shall concern the subject matter and the number and  
14 type of continuing education credits to be required.

15 b. The board shall approve education programs relevant to  
16 landscape irrigation and water conservation and designate by  
17 regulation the number of credits to be given for continuing  
18 education.

19 c. The board shall approve other equivalent educational  
20 programs including, but not limited to, programs provided by  
21 educational institutions, irrigation associations and other relevant  
22 professional and technical associations, as well as relevant trade  
23 groups, and shall establish procedures for the issuance of credit  
24 upon the satisfactory completion of these programs.

25 d. The board shall waive continuing education requirements  
26 under this section on an individual basis for reasons of certified  
27 illness, undue hardship, disability, retirement, or other good cause.

28  
29 9. a. The board may refuse to admit a person to an  
30 examination, or may refuse to issue or renew, or may suspend or  
31 revoke any certificate or business permit issued by the board  
32 pursuant to this act upon proof that the applicant or holder of the  
33 certificate or business permit:

34 (1) Has obtained a certificate or business permit or authorization  
35 to sit for an examination, as the case may be, through fraud,  
36 deception, or misrepresentation;

37 (2) Has engaged in the use or employment of dishonesty, fraud,  
38 deception, misrepresentation, false promise or false pretense;

39 (3) Has engaged in gross negligence or gross incompetence;

40 (4) Has engaged in repeated acts of negligence or incompetence;

41 (5) Has engaged in occupational misconduct as may be  
42 determined by the board;

43 (6) Has been convicted of any crime involving moral turpitude  
44 or any crime relating adversely to the activity regulated by the  
45 board. For the purpose of this paragraph a plea of guilty, non vult,  
46 nolo contendere or any other similar disposition of alleged criminal  
47 activity shall be deemed a conviction;

1 (7) Has had the authority to engage in the activity regulated by  
2 the board revoked or suspended by any other state, agency or  
3 authority for reasons consistent with this section;

4 (8) Has violated or failed to comply with the provisions of this  
5 act;

6 (9) Is incapable, for medical or any other good cause, of  
7 discharging the functions of a certificate holder in a manner  
8 consistent with the public's health, safety and welfare; or

9 (10) Has failed to comply with the continuing education  
10 requirements as provided in section 8 of this act.

11 b. The board shall afford a landscape irrigation contractor or  
12 person holding a business permit an opportunity for hearing before  
13 a certificate or business permit is revoked. The board shall afford a  
14 landscape irrigation contractor or person holding a business permit  
15 an opportunity for hearing after issuing an order to suspend a  
16 certificate or business permit, issued pursuant to section 11 of this  
17 act.

18

19 10. a. If any person violates any provisions of this act, or any  
20 code, rule, regulation, or order adopted or issued pursuant to this  
21 act, the board may institute a civil action in a court of competent  
22 jurisdiction for injunctive or any other appropriate relief to prohibit  
23 and prevent a violation or violations and the court may proceed in  
24 the action in a summary manner.

25 b. If any person violates the provisions of this act or any code,  
26 rule, regulation or order adopted or issued pursuant to this act, the  
27 board may assess a civil administrative penalty of not more than  
28 \$2,500 for the first offense and not more than \$5,000 for the second  
29 and each subsequent offense. If the violation is of a continuing  
30 nature, each day during which it continues shall constitute an  
31 additional, separate, and distinct offense. No civil administrative  
32 penalty shall be levied except upon an administrative order issued  
33 pursuant to section 11 of this act.

34 c. The board is authorized and empowered to compromise and  
35 settle any claim for a penalty in an amount the board determines is  
36 appropriate and equitable under all circumstances.

37 d. Any person who violates a provision of this act or any code,  
38 rule, regulation, or order adopted or issued pursuant to this act, or a  
39 court order issued pursuant to subsection a. of this section, or who  
40 fails to pay a civil administrative penalty in full pursuant to  
41 subsection b. of this section, is subject, upon order of the court, to a  
42 civil penalty of not more than \$2,500 for the first offense and not  
43 more than \$5,000 for the second and each subsequent offense.

44 e. If the violation is of a continuing nature, each day during  
45 which the violation continues, or each day in which the civil  
46 administrative penalty is not paid in full, constitutes an additional,  
47 separate, and distinct offense. Any penalty imposed under this  
48 section may be recovered with costs in a summary proceeding

1 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
2 c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal  
3 court shall have jurisdiction to enforce the "Penalty Enforcement  
4 Law of 1999" in connection with this act.

5  
6 11. a. Should the board have cause to believe that any person is  
7 in violation of any provision of this act or rules and regulations  
8 promulgated pursuant to this act, the board may initiate an  
9 investigation. If upon investigation the board determines that there  
10 has been a violation of the provisions of this act or rules and  
11 regulations promulgated pursuant to this act, the board shall be  
12 authorized to:

13 (1) issue a letter of warning, reprimand, or censure with regard  
14 to any act, conduct, or practice which in the judgment of the board  
15 upon consideration of all relevant facts and circumstances does not  
16 warrant an initiation of formal action;

17 (2) order any person violating any provision of this act or rules  
18 and regulations promulgated pursuant to this act to cease or desist  
19 from future violations or to take other affirmative corrective action  
20 as may be necessary with regard to any act or practice found  
21 unlawful by the board;

22 (3) order any person found to have violated any provision of this  
23 act or rules and regulations promulgated pursuant to this act to  
24 restore any person for whom landscape irrigation contracting work  
25 was done to his position prior to performance of the work;

26 (4) assess a civil administrative penalty in accordance with  
27 section 10 of this act;

28 (5) Bring a civil action for injunctive or any other appropriate  
29 relief to prohibit and prevent such violation or violations in  
30 accordance with section 10 of this act;

31 (6) Bring a civil action for a civil penalty in accordance with  
32 section 10 of this act; or

33 (7) revoke or suspend a certificate or business permit pursuant  
34 to section 9 of this act.

35 The use of any of the remedies specified under this section shall  
36 not preclude use of any other remedy specified.

37 b. Any person to which an order or assessment of civil  
38 administrative penalty or a notice of revocation of a certificate or  
39 business permit is issued has 20 days from the receipt of the order  
40 to deliver to the board a written request for a hearing. Upon receipt  
41 of that request, the board shall determine whether to conduct the  
42 hearing itself or refer the matter to the Office of Administrative  
43 Law, which shall assign an Administrative Law Judge to conduct a  
44 hearing in the form of a contested case pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.). If the matter is referred to the Office of Administrative Law,  
47 the board shall affirm, reject, or modify the decision within 45 days  
48 of receipt of the Administrative Law Judge's initial decision by



1 issuing its own final decision. The board's action shall be  
2 considered the final agency action for the purposes of the  
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
4 seq.), and shall be subject only to judicial review as provided in the  
5 Rules of Court.

6 c. If no hearing is requested, an order becomes a final order  
7 upon the expiration of the 20-day period. This final order shall be  
8 considered the final agency action for the purposes of the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), and shall be subject only to judicial review as provided in the  
11 Rules of Court. Payment of an administrative penalty is due when a  
12 final order is issued or when the order becomes a final order.  
13 Pending the determination by the board and upon application by a  
14 person to whom an order or notice of revocation is issued, the board  
15 may stay operation of an order upon terms and conditions it deems  
16 proper.

17

18 12. The issuance of a certificate by the board shall authorize any  
19 certificate holder to perform landscape irrigation contracting in any  
20 municipality, county or other political subdivision of the State, and  
21 no further examination or special license shall be required of the  
22 certificate holder, except business licenses, permit fees, and any  
23 other standard licenses and fees as may be required of any person  
24 doing business within the jurisdiction of the political subdivision.

25

26 13. The following are repealed:  
27 P.L.1991, c.27 (C.45:5AA-1 et seq.); and  
28 Section 10 of P.L.2009, c.229 (C.45:5AA-7.1).

29

30 14. This act shall take effect on July 1, 2015.

31

32

33

#### STATEMENT

34

35 This bill abolishes the Landscape Irrigation Contractors  
36 Examining Board, currently in the Department of Environmental  
37 Protection, and transfers all of the functions of the board to the  
38 Department of Community Affairs. The provisions of this bill,  
39 concerning the certification and regulation of landscape irrigation  
40 contractors and the issuance of business permits to persons to  
41 engage in the business of landscape irrigation contracting, remain  
42 consistent with prior law, but those provisions now would be  
43 overseen and regulated by the Board of Landscape Irrigation  
44 Contractors.

45 The bill also establishes in the Department of Community  
46 Affairs a Board of Landscape Irrigation Contractors. The board  
47 shall consist of: the Commissioner of Community Affairs, or the  
48 commissioner's designated representative; five landscape irrigation

**S2234 THOMPSON, VAN DREW**

12

1 contractors who are residents of the State; and one licensed  
2 professional engineer or licensed landscape architect. Each of the  
3 public members shall be appointed by the Governor with the advice  
4 and consent of the Senate.

5 The bill repeals the “Landscape Irrigation Contractor  
6 Certification Act of 1991” in its entirety.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 2234**

**STATE OF NEW JERSEY**

DATED: JUNE 26, 2014

The Senate Commerce Committee reports favorably Senate Bill No. 2234.

This bill abolishes the Landscape Irrigation Contractors Examining Board, currently in the Department of Environmental Protection, and transfers all of the functions of the board to the Department of Community Affairs. The provisions of this bill, concerning the certification and regulation of landscape irrigation contractors and the issuance of business permits to persons to engage in the business of landscape irrigation contracting, remain consistent with prior law, but those provisions now would be overseen and regulated by the Board of Landscape Irrigation Contractors.

The bill also establishes in the Department of Community Affairs a Board of Landscape Irrigation Contractors. The board shall consist of: the Commissioner of Community Affairs, or the commissioner's designated representative; five landscape irrigation contractors who are residents of the State; and one licensed professional engineer or licensed landscape architect. Each of the public members shall be appointed by the Governor with the advice and consent of the Senate.

The bill repeals the "Landscape Irrigation Contractor Certification Act of 1991" in its entirety.

# ASSEMBLY, No. 3397

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 12, 2014

**Sponsored by:**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman ROBERT D. CLIFTON**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman JASON O'DONNELL**

**District 31 (Hudson)**

**SYNOPSIS**

Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/17/2014)**

1 AN ACT abolishing the Landscape Irrigation Contractors Examining  
2 Board and transferring its functions, supplementing Title 52 of  
3 the Revised Statutes, and repealing P.L.1991, c.27 and section 10  
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15 "Commissioner" means the Commissioner of Community  
16 Affairs.

17 "Department" means the Department of Community Affairs.

18 "Landscape irrigation contracting" means the construction,  
19 repair, maintenance, improvement and alteration of any portion of a  
20 landscape irrigation system, including required wiring within that  
21 system and connection to the required power supply and the  
22 installation and connection to a public or private water supply  
23 system under the terms and conditions of a contract.

24 "Landscape irrigation contractor" means a natural person who is  
25 certified to do landscape irrigation contracting.

26 "Landscape irrigation contractor certificate" or "certificate"  
27 means the certificate issued by the board pursuant to the provisions  
28 of this act.

29 "Landscape irrigation system" means any assemblage of  
30 components, materials or special equipment which is designed,  
31 constructed and installed for controlled dispersion of water from  
32 any safe and suitable source, including properly treated wastewater,  
33 for the purpose of irrigating landscape vegetation or the control of  
34 dust and erosion on landscaped areas, including integral pumping  
35 systems or integral control systems for manual, semi-automatic or  
36 automatic control of the operation of these systems.

37 "Permittee" means a person who has secured a business permit to  
38 engage in the business of landscape irrigation contracting, pursuant  
39 to the provisions of this act.

40 "Person" means any natural person, corporation, company,  
41 partnership, firm, association, and any owner or operator of a  
42 permittee.

43  
44 2. a. The Landscape Irrigation Contractors Examining Board  
45 created by P.L.1991, c.27 (C:45:5AA-1 et seq.) within the  
46 Department of Environmental Protection is abolished as an agency  
47 in the Executive Branch of State Government and all of its

1 functions, powers and duties are hereby transferred to the  
2 Department of Community Affairs.

3 b. The offices and terms of the members, assistants, and  
4 deputies of the Landscape Irrigation Contractors Examining Board  
5 are hereby terminated.

6 c. Regulations of the Landscape Irrigation Contractors  
7 Examining Board concerning its organization, function, practice  
8 and procedure are void. Whenever in any law, rule, regulation,  
9 order, reorganization plan, contract, document, judicial or  
10 administrative proceeding, or otherwise, reference is made to the  
11 Landscape Irrigation Contractors Examining Board, the same shall  
12 mean and refer to the Board of Landscape Irrigation Contractors.

13 d. This act shall not affect the tenure, compensation, and  
14 pension rights, if any, of the holder of a position not specifically  
15 abolished herein in office upon the effective date of this act, nor  
16 alter the term of a member of a board, commission, or public body,  
17 not specifically abolished herein, in office on the effective date of  
18 this act, or require the reappointment thereof.

19 e. This act shall be subject to the provisions of the "State  
20 Agency Transfer Act," P.L.1971, c.375 (C:52:14D-1 et seq.).

21 f. The responsibility of all cases pending on the effective date  
22 of this act in which the Landscape Irrigation Contractors Examining  
23 Board is a party handled by offices being abolished shall be  
24 assumed by the Board of Landscape Irrigation Contractors, unless  
25 the Commissioner of Community Affairs determines that there are  
26 not sufficient resources to continue any particular litigation.

27 g. Acts and part of acts inconsistent with any of the provisions  
28 of this act are, to the extent of that inconsistency, superseded and  
29 repealed.

30

31 3. a. There is established in the Department of Community  
32 Affairs the Board of Landscape Irrigation Contractors, which shall  
33 consist of seven members, as follows: the Commissioner of  
34 Community Affairs, or the commissioner's designated  
35 representative, who shall serve ex officio; five public members who  
36 shall be landscape irrigation contractors and residents of the State;  
37 and one public member who shall be a licensed professional  
38 engineer or licensed landscape architect. Each of the public  
39 members shall be appointed by the Governor with the advice and  
40 consent of the Senate, for terms of three years. Each of these  
41 members shall hold office for the term of the appointment and until  
42 a successor is appointed and qualified. Any vacancy in the  
43 membership occurring other than by expiration of a term shall be  
44 filled in the same manner as the original appointment, but for the  
45 unexpired term only.

46 b. The members of the board shall elect from among their  
47 number a chairperson, who shall schedule, convene, and chair board

1 meetings, and a vice-chairperson, who shall act as chair in the  
2 chairperson's absence.

3 c. The powers of the board are vested in the members thereof  
4 in office, and a majority of the total authorized membership of the  
5 board is required to exercise its powers at any meeting thereof;  
6 provided however, that if a board member has resigned or otherwise  
7 vacated his membership appointment before the expiration of his  
8 term, or if a board member does not serve after the expiration of his  
9 term, or if a board member does not serve after the expiration of his  
10 term pending the appointment of a successor, then, until those  
11 vacancies are filled, a majority of the currently serving membership  
12 of the board is required to exercise its powers at any meeting  
13 thereof.

14 d. The members of the board shall serve without compensation,  
15 but the board may, within the limits of funds appropriated or  
16 otherwise made available to it, reimburse members for actual  
17 expenses necessarily incurred in the discharge of their official  
18 duties.

19 e. The board shall meet twice annually, and at other times as  
20 may be necessary, at a place provided by the department.

21

22 4. a. No person shall advertise, enter into or engage in the  
23 business of landscape irrigation contracting unless the person has  
24 first secured a business permit from the board and that person or an  
25 officer, partner or employee who is or will be actively engaged in  
26 the business for which a business permit is sought has obtained a  
27 landscape irrigation contractor certificate from the board in  
28 accordance with the provisions of this act, and that certified  
29 landscape irrigation contractor shall assume full responsibility for  
30 inspection and supervision of all landscape irrigation contracting  
31 work to be performed by the permittee. If a permittee or business  
32 permit applicant employs more than one certified landscape  
33 irrigation contractor, the permittee or business permit applicant  
34 shall designate which certified landscape irrigation contractor shall  
35 assume full responsibility for inspection and supervision of all  
36 landscape irrigation contracting work to be performed by the  
37 permittee. Any single act or transaction, including the advertising  
38 of available services, shall constitute engaging in the business of  
39 landscape irrigation contracting. A certified landscape irrigation  
40 contractor shall not be entitled to qualify more than one person for a  
41 business permit.

42 The provisions of this subsection shall not apply to any  
43 newspaper or any digital news website owned, controlled, or  
44 operated by a newspaper.

45 b. The following are exempt from the certificate requirement  
46 imposed by this act:

- 1 (1) Officers, employees, and duly authorized representatives of  
2 the United States, the State, or any political subdivision thereof  
3 performing work on the property of the public entity;
- 4 (2) Vendors of landscape irrigation components, materials, or  
5 equipment who perform only such functions as delivery, rendering  
6 of advice or assistance in the installation or normal warranty service  
7 or exchange of defective or damaged goods;
- 8 (3) Contractors engaged in the design, fabrication, installation  
9 or construction of irrigation apparatus, or irrigation equipment of  
10 any type which is to be used solely for agricultural purposes in the  
11 production of harvestable and saleable vegetative or animal  
12 products;
- 13 (4) Plumbing contractors as defined by section 2 of P.L.1968,  
14 c.362 (C.45:14C-2); and
- 15 (5) Employees engaged in landscape irrigation contracting for a  
16 permittee which has at least one certified landscape irrigation  
17 contractor.
- 18 c. If a landscape irrigation system is connected to a potable  
19 water supply, the landscape irrigation contractor's connection is to  
20 begin at the downstream side of a properly installed backflow  
21 prevention device as required by the Plumbing Subcode of the  
22 Uniform Construction Code adopted pursuant to section 5 of the  
23 "State Uniform Construction Code Act," P.L.1975, c.217  
24 (C.52:27D-123).
- 25 d. (1) Landscape contractors are exempt from obtaining a  
26 certificate as provided in this act when replacing sprinkler heads  
27 damaged during lawn mowing or grounds maintenance or when  
28 making minor incidental repairs to sprinkler piping damaged during  
29 landscape construction.
- 30 (2) The exemption provided in paragraph (1) of this subsection  
31 shall not apply to the installation of automatic controllers, electric  
32 or hydraulic control valves, drip irrigation systems and micro-  
33 irrigation systems, or to the performance of irrigation system  
34 service or maintenance.
- 35 e. Golf course employees performing work on landscape  
36 irrigation systems on the golf course where they are currently  
37 employed, are exempt from obtaining a certificate as provided in  
38 this act.
- 39 f. A business permit shall not be required in connection with  
40 landscape irrigation contracting performed by an employee of a  
41 community association for the community association's landscape  
42 irrigation system. For purposes of this subsection, "community  
43 association" means a condominium, homeowner, fee simple,  
44 cooperative or other community association.
- 45 g. Nothing in this act shall be construed to prevent individuals  
46 licensed or certified in this State under any other law from engaging  
47 in the profession for which they are licensed or certified.



1       5. A person seeking certification as a landscape irrigation  
2 contractor shall apply therefor on forms prescribed and provided by  
3 the board, and pay the application fee established by the board. In  
4 addition to any other information or documents that may be  
5 required by the board, each applicant shall submit satisfactory  
6 evidence that the applicant is at least 18 years of age, has no  
7 unresolved violations with the board and has a minimum of three  
8 years' experience within the last 15 years in the field of landscape  
9 irrigation.

10

11       6. The board shall:

12       a. Review the qualifications of an applicant for certification as  
13 a landscape irrigation contractor;

14       b. Insure the proper conduct and standards of examinations for  
15 the certification of landscape irrigation contractors;

16       c. Issue and renew certificates pursuant to this act, as  
17 appropriate;

18       d. Refuse to issue or renew or shall suspend or revoke a  
19 certificate issued under this act pursuant to section 9 of this act;

20       e. Maintain a registry of landscape irrigation contractor  
21 certificates which shall record the name and address of the  
22 contractor, the date the certificate was issued, and the number of the  
23 certificate;

24       f. Require continuing education for certified landscape  
25 irrigation contractors as provided in section 8 of this act;

26       g. Review applications for a business permit;

27       h. Issue a business permit to a person engaged in the business  
28 of landscape irrigation contracting and define any restrictions or  
29 requirements regarding the use of that permit;

30       i. Allow a person to continue to engage in landscape irrigation  
31 contracting for a period of up to 180 calendar days after the death,  
32 disability or cessation of employment of the responsible certificate  
33 holder who qualified the person for a business permit when the  
34 board is notified within 30 days of such an occurrence;

35       j. Refuse to issue or renew a business permit or suspend or  
36 revoke a business permit in accordance with section 9 of this act;

37       k. Establish procedures for the registry of a business permit for  
38 each person engaged in the business of landscape irrigation  
39 contracting;

40       l. Maintain a registry of landscape irrigation contracting  
41 business permits which shall include the permittee's name, trade  
42 name, business permit number, federal and State tax identification  
43 numbers, landscape irrigation contractor's certificate name and  
44 certification number, street address and mailing address of the  
45 permittee, phone number of the permittee, and other information the  
46 board deems necessary;

1 m. Adopt, pursuant to the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to carry  
3 out the provisions of this act; and

4 n. Adopt, pursuant to the "Administrative Procedure Act,"  
5 P.L.1968, c.410 (C.52:14B-1 et seq.), fees for examinations,  
6 applications and renewals of certificates or business permits, and  
7 administrative costs associated with verifying continuing education  
8 requirements. These fees shall be prescribed or changed to the  
9 extent necessary to defray the expenses incurred by the board in the  
10 performance of its duties but shall not be fixed at a level that will  
11 raise amounts in excess of the amount estimated to be so required.

12  
13 7. a. The board shall develop an examination to evaluate the  
14 knowledge, ability, and fitness of applicants to perform as  
15 landscape irrigation contractors and for the certification thereof and  
16 shall administer these examinations at least semi-annually at times  
17 and places to be determined by the board. The board shall provide  
18 adequate written notice of the time and place of the examination.  
19 An applicant who fails an examination may not retake the  
20 examination sooner than six months after the initial examination.  
21 The board shall issue a certificate to an applicant who successfully  
22 passes the examination and otherwise meets the standards and  
23 qualifications established by the board.

24 b. Each initial certificate issued pursuant to this act shall expire  
25 on January 31 of the second calendar year following issuance. All  
26 certificates issued thereafter shall remain valid for a period of two  
27 years and shall expire on January 31 of the second calendar year. A  
28 new certificate issued any time after the regular January 31 date of  
29 issuance shall remain valid until the regular January 31 date of  
30 expiration.

31 c. A person may seek renewal of a certificate upon submission  
32 of a renewal application, proof of having obtained any required  
33 continuing education credits and payment of the renewal fee  
34 established by the board.

35 d. If a renewal application and fee are not received by the  
36 board, the certificate shall expire, except that a person may renew a  
37 certificate within two years of its expiration upon payment of an  
38 appropriate fee to be set by the board. A new certificate, issued  
39 pursuant to the provisions of this act, shall be required of a person  
40 who fails to renew a certificate within two years of its expiration.

41 e. Each application for a business permit or its renewal shall be  
42 accompanied by proof of liability insurance, and workers'  
43 compensation insurance if workers' compensation insurance is  
44 required by law, and the appropriate fee. The applicant or permittee  
45 shall notify the board of any insurance changes.

46 f. The board may, upon payment of appropriate fees, grant  
47 landscape irrigation contractors certificates without examination or  
48 upon partial examination to applicants licensed or certified by other

1 states; provided that New Jersey landscape irrigation contractors are  
2 granted reciprocity by those states and those states' standards are  
3 equal or comparable to those of New Jersey.

4 g. Certificates and permits issued by the Landscape Irrigation  
5 Contractors Examining Board pursuant to P.L.1991, c.27  
6 (C.45:5AA-1 et seq.) prior to the effective date of this act shall  
7 remain in effect until issued or renewed by the board pursuant to  
8 this act.

9  
10 8. a. The board shall establish standards for continuing  
11 education for landscape irrigation contractors as a condition of  
12 certification renewal for certificates issued under its jurisdiction.  
13 The standards shall concern the subject matter and the number and  
14 type of continuing education credits to be required.

15 b. The board shall approve education programs relevant to  
16 landscape irrigation and water conservation and designate by  
17 regulation the number of credits to be given for continuing  
18 education.

19 c. The board shall approve other equivalent educational  
20 programs including, but not limited to, programs provided by  
21 educational institutions, irrigation associations and other relevant  
22 professional and technical associations, as well as relevant trade  
23 groups, and shall establish procedures for the issuance of credit  
24 upon the satisfactory completion of these programs.

25 d. The board shall waive continuing education requirements  
26 under this section on an individual basis for reasons of certified  
27 illness, undue hardship, disability, retirement, or other good cause.

28  
29 9. a. The board may refuse to admit a person to an  
30 examination, or may refuse to issue or renew, or may suspend or  
31 revoke any certificate or business permit issued by the board  
32 pursuant to this act upon proof that the applicant or holder of the  
33 certificate or business permit:

34 (1) Has obtained a certificate or business permit or authorization  
35 to sit for an examination, as the case may be, through fraud,  
36 deception, or misrepresentation;

37 (2) Has engaged in the use or employment of dishonesty, fraud,  
38 deception, misrepresentation, false promise or false pretense;

39 (3) Has engaged in gross negligence or gross incompetence;

40 (4) Has engaged in repeated acts of negligence or incompetence;

41 (5) Has engaged in occupational misconduct as may be  
42 determined by the board;

43 (6) Has been convicted of any crime involving moral turpitude  
44 or any crime relating adversely to the activity regulated by the  
45 board. For the purpose of this paragraph a plea of guilty, non vult,  
46 nolo contendere or any other similar disposition of alleged criminal  
47 activity shall be deemed a conviction;

1 (7) Has had the authority to engage in the activity regulated by  
2 the board revoked or suspended by any other state, agency or  
3 authority for reasons consistent with this section;

4 (8) Has violated or failed to comply with the provisions of this  
5 act;

6 (9) Is incapable, for medical or any other good cause, of  
7 discharging the functions of a certificate holder in a manner  
8 consistent with the public's health, safety and welfare; or

9 (10) Has failed to comply with the continuing education  
10 requirements as provided in section 8 of this act.

11 b. The board shall afford a landscape irrigation contractor or  
12 person holding a business permit an opportunity for hearing before  
13 a certificate or business permit is revoked. The board shall afford a  
14 landscape irrigation contractor or person holding a business permit  
15 an opportunity for hearing after issuing an order to suspend a  
16 certificate or business permit, issued pursuant to section 11 of this  
17 act.

18

19 10. a. If any person violates any provisions of this act, or any  
20 code, rule, regulation, or order adopted or issued pursuant to this  
21 act, the board may institute a civil action in a court of competent  
22 jurisdiction for injunctive or any other appropriate relief to prohibit  
23 and prevent a violation or violations and the court may proceed in  
24 the action in a summary manner.

25 b. If any person violates the provisions of this act or any code,  
26 rule, regulation or order adopted or issued pursuant to this act, the  
27 board may assess a civil administrative penalty of not more than  
28 \$2,500 for the first offense and not more than \$5,000 for the second  
29 and each subsequent offense. If the violation is of a continuing  
30 nature, each day during which it continues shall constitute an  
31 additional, separate, and distinct offense. No civil administrative  
32 penalty shall be levied except upon an administrative order issued  
33 pursuant to section 11 of this act.

34 c. The board is authorized and empowered to compromise and  
35 settle any claim for a penalty in an amount the board determines is  
36 appropriate and equitable under all circumstances.

37 d. Any person who violates a provision of this act or any code,  
38 rule, regulation, or order adopted or issued pursuant to this act, or a  
39 court order issued pursuant to subsection a. of this section, or who  
40 fails to pay a civil administrative penalty in full pursuant to  
41 subsection b. of this section, is subject, upon order of the court, to a  
42 civil penalty of not more than \$2,500 for the first offense and not  
43 more than \$5,000 for the second and each subsequent offense.

44 e. If the violation is of a continuing nature, each day during  
45 which the violation continues, or each day in which the civil  
46 administrative penalty is not paid in full, constitutes an additional,  
47 separate, and distinct offense. Any penalty imposed under this  
48 section may be recovered with costs in a summary proceeding

1 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
2 c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal  
3 court shall have jurisdiction to enforce the "Penalty Enforcement  
4 Law of 1999" in connection with this act.

5  
6 11. a. Should the board have cause to believe that any person is  
7 in violation of any provision of this act or rules and regulations  
8 promulgated pursuant to this act, the board may initiate an  
9 investigation. If upon investigation the board determines that there  
10 has been a violation of the provisions of this act or rules and  
11 regulations promulgated pursuant to this act, the board shall be  
12 authorized to:

13 (1) issue a letter of warning, reprimand, or censure with regard  
14 to any act, conduct, or practice which in the judgment of the board  
15 upon consideration of all relevant facts and circumstances does not  
16 warrant an initiation of formal action;

17 (2) order any person violating any provision of this act or rules  
18 and regulations promulgated pursuant to this act to cease or desist  
19 from future violations or to take other affirmative corrective action  
20 as may be necessary with regard to any act or practice found  
21 unlawful by the board;

22 (3) order any person found to have violated any provision of this  
23 act or rules and regulations promulgated pursuant to this act to  
24 restore any person for whom landscape irrigation contracting work  
25 was done to his position prior to performance of the work;

26 (4) assess a civil administrative penalty in accordance with  
27 section 10 of this act;

28 (5) Bring a civil action for injunctive or any other appropriate  
29 relief to prohibit and prevent such violation or violations in  
30 accordance with section 10 of this act;

31 (6) Bring a civil action for a civil penalty in accordance with  
32 section 10 of this act; or

33 (7) revoke or suspend a certificate or business permit pursuant  
34 to section 9 of this act.

35 The use of any of the remedies specified under this section shall  
36 not preclude use of any other remedy specified.

37 b. Any person to which an order or assessment of civil  
38 administrative penalty or a notice of revocation of a certificate or  
39 business permit is issued has 20 days from the receipt of the order  
40 to deliver to the board a written request for a hearing. Upon receipt  
41 of that request, the board shall determine whether to conduct the  
42 hearing itself or refer the matter to the Office of Administrative  
43 Law, which shall assign an Administrative Law Judge to conduct a  
44 hearing in the form of a contested case pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.). If the matter is referred to the Office of Administrative Law,  
47 the board shall affirm, reject, or modify the decision within 45 days  
48 of receipt of the Administrative Law Judge's initial decision by

1 issuing its own final decision. The board's action shall be  
2 considered the final agency action for the purposes of the  
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
4 seq.), and shall be subject only to judicial review as provided in the  
5 Rules of Court.

6 c. If no hearing is requested, an order becomes a final order  
7 upon the expiration of the 20-day period. This final order shall be  
8 considered the final agency action for the purposes of the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), and shall be subject only to judicial review as provided in the  
11 Rules of Court. Payment of an administrative penalty is due when a  
12 final order is issued or when the order becomes a final order.  
13 Pending the determination by the board and upon application by a  
14 person to whom an order or notice of revocation is issued, the board  
15 may stay operation of an order upon terms and conditions it deems  
16 proper.

17

18 12. The issuance of a certificate by the board shall authorize any  
19 certificate holder to perform landscape irrigation contracting in any  
20 municipality, county or other political subdivision of the State, and  
21 no further examination or special license shall be required of the  
22 certificate holder, except business licenses, permit fees, and any  
23 other standard licenses and fees as may be required of any person  
24 doing business within the jurisdiction of the political subdivision.

25

26 13. The following are repealed:  
27 P.L.1991, c.27 (C.45:5AA-1 et seq.); and  
28 Section 10 of P.L.2009, c.229 (C.45:5AA-7.1).

29

30 14. This act shall take effect on July 1, 2015.

31

32

33

#### STATEMENT

34

35 This bill abolishes the Landscape Irrigation Contractors  
36 Examining Board, currently in the Department of Environmental  
37 Protection, and transfers all of the functions of the board to the  
38 Department of Community Affairs. The provisions of this bill,  
39 concerning the certification and regulation of landscape irrigation  
40 contractors and the issuance of business permits to persons to  
41 engage in the business of landscape irrigation contracting, remain  
42 consistent with prior law, but those provisions now would be  
43 overseen and regulated by the Board of Landscape Irrigation  
44 Contractors.

45

46 The bill also establishes in the Department of Community  
47 Affairs a Board of Landscape Irrigation Contractors. The board  
48 shall consist of: the Commissioner of Community Affairs, or the  
commissioner's designated representative; five landscape irrigation

**A3397 GIBLIN, CLIFTON**

12

1 contractors who are residents of the State; and one licensed  
2 professional engineer or licensed landscape architect. Each of the  
3 public members shall be appointed by the Governor with the advice  
4 and consent of the Senate.

5 The bill repeals the “Landscape Irrigation Contractor  
6 Certification Act of 1991” in its entirety.

# ASSEMBLY REGULATED PROFESSIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3397

# STATE OF NEW JERSEY

DATED: OCTOBER 23, 2014

The Assembly Regulated Professions Committee reports favorably on Assembly Bill No. 3397.

This bill abolishes the Landscape Irrigation Contractors Examining Board, currently in the Department of Environmental Protection, and transfers all of the functions of the board to the Department of Community Affairs. The provisions of this bill, concerning the certification and regulation of landscape irrigation contractors and the issuance of business permits to persons to engage in the business of landscape irrigation contracting, remain consistent with prior law, but those provisions now would be overseen and regulated by the Board of Landscape Irrigation Contractors.

The bill also establishes in the Department of Community Affairs a Board of Landscape Irrigation Contractors. The board shall consist of: the Commissioner of Community Affairs, or the commissioner's designated representative; five landscape irrigation contractors who are residents of the State; and one licensed professional engineer or licensed landscape architect. Each of the public members shall be appointed by the Governor with the advice and consent of the Senate.

The bill repeals the "Landscape Irrigation Contractor Certification Act of 1991" in its entirety.



**SENATE BILL NO. 2234**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2234 with my recommendations for reconsideration.

This bill intends to move a board charged with overseeing landscape irrigation contractors from the Department of Environmental Protection to the Department of Community Affairs. It further seeks to rename the board. I have no objection to the goals of this legislation. Unfortunately, however, the bill could cause significant disruption for landscape irrigation contractors and consumers. As drafted, the bill would immediately dissolve the existing board. While the bill creates a new board to replace the one being dissolved, appointing board members is not an instantaneous process, especially when the appointments require the advice and consent of the Senate, as is the case here. Separately, the bill would immediately void the existing board's regulations. Although the bill contemplates the promulgation of new regulations, under the Administrative Procedure Act, proposing and adopting new regulations can take many months. The bill would therefore leave landscape irrigation contractors without an oversight board and without regulations for an indeterminate period of time. I do not believe the Legislature intended the bill to function in this manner. Rather, I believe that the Legislature sought only to rename the existing board and transfer responsibility for it from the Department of Environmental Protection to the Department of Community Affairs. My recommendations would accomplish these ends.

Accordingly, I herewith return Senate Bill No. 2234 and recommend that it be amended as follows:

<u>Page 2, Title, Line 1:</u>	Delete "abolishing" and insert "renaming"
<u>Page 2, Title, Line 3:</u>	Delete "repealing" and insert "amending"
<u>Page 2, Title, Line 3:</u>	Delete "and section 10" and insert "."
<u>Page 2, Title, Line 4:</u>	Delete in its entirety
<u>Page 2, Section 1, Lines 9-42:</u>	Delete in their entirety
<u>Page 2, Section 2, Line 44:</u>	Delete "2. a." and insert "1."
<u>Page 2, Section 2, Line 46:</u>	Delete "is abolished as an agency" and insert ","
<u>Page 2, Section 2, Line 47:</u>	Delete "in the Executive Branch of State Government and" and insert "together with"
<u>Page 3, Section 2, Line 1:</u>	After "powers" insert ","
<u>Page 3, Section 2, Line 1:</u>	After "duties" insert ","
<u>Page 3, Section 2, Line 1:</u>	Delete "transferred to" and insert "continued as the Board of Landscape Irrigation Contractors in"
<u>Page 3, Section 2, Lines 3-7:</u>	Delete in their entirety
<u>Page 3, Section 2, Line 8:</u>	Delete "and procedure are void."
<u>Page 3, Section 2, Line 12:</u>	After "." insert "Whenever any law grants the Department of Environmental Protection, or the commissioner thereof, review, control, or power over or relating to the Landscape Irrigation Contractors Examining Board, that review, control, or power shall be exercised by the Department of Community Affairs, or the commissioner thereof."
<u>Page 3, Section 2, Lines 13-29:</u>	Delete in their entirety
<u>Page 3, Section 2, Line 30:</u>	Insert new sections 2 and 3:  "2. Section 5 of P.L.1991, c.27 (C.45:5AA-5) is amended to read as follows:  5. a. There is established in the Department of [Environmental Protection] <b>Community Affairs</b> the [Landscape Irrigation Contractors Examining] Board <b>of Landscape Irrigation Contractors</b> , which shall consist of seven members, as follows: the Commissioner of

[Environmental Protection]  
Community Affairs, or the commissioner's designated representative, who shall serve ex officio; five public members who shall be landscape irrigation contractors and residents of the State; and one public member who shall be a licensed professional engineer or certified landscape architect. Each of the public members shall be appointed by the Governor with the advice and consent of the Senate, for terms of three years. Each of these members shall hold office for the term of the appointment and until a successor is appointed and qualified. Any vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only.

b. The members of the board shall elect from among their number a chairperson, who shall schedule, convene, and chair board meetings, and a vice-chairperson who shall act as chair in the chairperson's absence.

c. The powers of the board are vested in the members thereof in office, and a majority of the total authorized membership of the board is required to exercise its powers at any meeting thereof; provided however, that if a board member has resigned or otherwise vacated his or her membership appointment before the expiration of his or her term, or if a board member does not serve after the expiration of his or her term pending the appointment of a successor, then, until such vacancies are filled, a majority of the currently serving membership of the board is required to exercise its powers at any meeting thereof.

d. The members of the board shall serve without compensation, but the board may, within the limits of funds appropriated or otherwise made available to it, reimburse members for

actual expenses necessarily incurred in the discharge of their official duties.

e. The board shall meet twice annually, and at such other times as may be necessary, at a place provided by the department.

3. This act shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All records, equipment and other personal property, appropriations, and any balances of funds shall be transferred to the Department of Community Affairs pursuant to the State Agency Transfer Act."

<u>Page 3, Section 3, Lines 31-47:</u>	Delete in their entirety
<u>Page 4, Section 3, Lines 1-20:</u>	Delete in their entirety
<u>Page 4, Section 4, Lines 22-46:</u>	Delete in their entirety
<u>Page 5, Section 4, Lines 1-47:</u>	Delete in their entirety
<u>Page 6, Section 5, Lines 1-9:</u>	Delete in their entirety
<u>Page 6, Section 6, Lines 11-46:</u>	Delete in their entirety
<u>Page 7, Section 6, Lines 1-11:</u>	Delete in their entirety
<u>Page 7, Section 7, Lines 13-48:</u>	Delete in their entirety
<u>Page 8, Section 7, Lines 1-8:</u>	Delete in their entirety
<u>Page 8, Section 8, Lines 10-27:</u>	Delete in their entirety
<u>Page 8, Section 9, Lines 29-47:</u>	Delete in their entirety
<u>Page 9, Section 9, Lines 1-17:</u>	Delete in their entirety
<u>Page 9, Section 10, Lines 19-48:</u>	Delete in their entirety
<u>Page 10, Section 10, Lines 1-4:</u>	Delete in their entirety
<u>Page 10, Section 11, Lines 6-48:</u>	Delete in their entirety
<u>Page 11, Section 11, Lines 1-16:</u>	Delete in their entirety
<u>Page 11, Section 12, Lines 18-24:</u>	Delete in their entirety
<u>Page 11, Section 13, Lines 26-28:</u>	Delete in their entirety
<u>Page 11, Section 14, Line 30:</u>	Delete "14." and insert "4."
<u>Page 11, Section 14, Line 30:</u>	Delete "July 1, 2015" and insert "the first day of the sixth month after the date of enactment"

[seal]

Respectfully,  
/s/ Chris Christie  
Governor

Attest:

/s/ Christopher S. Porrino  
Chief Counsel to the Governor

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## Governor Christie Takes Action On Pending Legislation

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Trenton, NJ - Governor Chris Christie announced action that has been taken on the following legislation:

**BILL SIGNINGS:**

**S-854/A-1341 (Vitale, Greenstein/Quijano, Sumter, Pinkin, Wimberly)** - Requires that certain health care facilities be generator ready; allows health care facilities to qualify for NJEDA loans for cost of generators

**S-2234/A-3397 (Thompson, Van Drew/Giblin, Clifton, O'Donnell)** - Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs

**S-2784/A-3856 (Van Drew, Whelan/Andrzejczak, Johnson)** - Provides partial exemption and maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers

**A-3393/S-2167 (Spencer, Pintor Marin, Caputo, Tucker/Rice, Ruiz)** - Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit

**A-3421/S-2220 (Dancer, Mukheriji/Singer)** - Revises the "Self-Funded Multiple Employer Welfare Arrangement Regulation Act"

###

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