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LAW/RWH

[Second Reprint]

**ASSEMBLY, No. 2872**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED MAY 22, 2008

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman RONALD S. DANCER**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman CONNIE WAGNER**

**District 38 (Bergen)**

**Co-Sponsored by:**

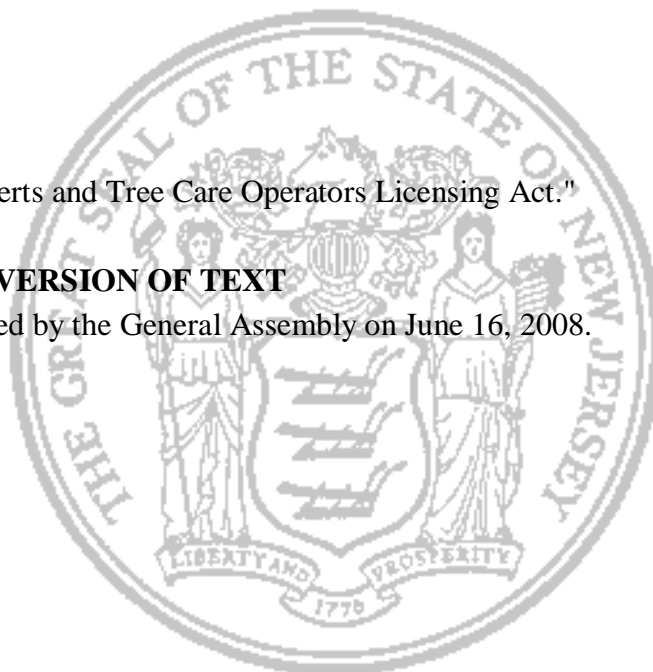
**Assemblyman DeCroce, Assemblywoman Greenstein, Assemblymen  
Malone, Biondi, Senators Gordon, Singer, Vitale, Sarlo, Sweeney,  
Cunningham and Scutari**

**SYNOPSIS**

"Tree Experts and Tree Care Operators Licensing Act."

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 16, 2008.



**(Sponsorship Updated As Of: 1/8/2010)**

1 AN ACT concerning the licensure of tree experts and tree care  
2 operators and the registration of certain employers,  
3 supplementing Title 45 of the Revised Statutes, and repealing  
4 P.L.1940, c.100 and sections 7 and 8 of P.L.1996, c.20.

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

8  
9 1. This act shall be known and may be cited as the "Tree  
10 Experts and Tree Care Operators Licensing Act."

11  
12 2. For the purposes of this act:

13 "Board" means the New Jersey Board of Tree Experts  
14 established pursuant to section 3 of this act.

15 "Licensed tree care operator" means a person licensed to provide  
16 tree care operator services in the State pursuant to subsection b. of  
17 section 7 of this act.

18 "Licensed tree expert" means a person licensed to provide tree  
19 expert services in this State pursuant to subsection a. of section 7 of  
20 this act.

21 "Tree care operator services" means and includes tree pruning,  
22 repairing, brush cutting or removal, tree removal, and stump  
23 grinding or removal.

24 "Tree care services" means tree care operator services and tree  
25 expert services as established by this act.

26 "Tree expert services" means and includes tree pruning,  
27 repairing, brush cutting or removal, tree removal, stump grinding or  
28 removal, tree establishment, fertilization, cabling and bracing,  
29 lightning protection, consulting, diagnosis, and treatment of tree  
30 problems or diseases, tree management during site planning and  
31 development, tree assessment and risk management, and application  
32 of pesticides or any other form of tree maintenance.

33  
34 3. There is established in the Department of Environmental  
35 Protection the New Jersey Board of Tree Experts. The board shall  
36 consist of nine members, including the Commissioner of the  
37 Department of Environmental Protection or the commissioner's  
38 designee, who shall serve ex officio, and eight members, appointed  
39 by the Governor with the advise and consent of the Senate as  
40 follows: five shall be licensed tree experts, two shall be licensed  
41 tree care operators, and one shall possess knowledge of  
42 arboriculture or forestry, including urban forestry. However, of the  
43 public members first appointed, three of the five licensed tree  
44 expert memberships shall be appointed from the members of the

**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 ARP committee amendments adopted June 5, 2008.

<sup>2</sup>Assembly floor amendments adopted June 16, 2008.

1 board of tree experts established by P.L.1940, c.100 (C.45:15-1 et  
2 seq.), participating on the board on the date of enactment of this act,  
3 and the remaining tree experts first appointed shall be certified, on  
4 or before the date of enactment of this act, pursuant to the  
5 provisions of P.L.1940, c.100 (C. 45:15C-1 et seq.). The initial  
6 members of the board, including the tree care operators first  
7 appointed, need not be licensed until 180 days following the  
8 promulgation of initial regulations by the board to carry out the  
9 provisions of this act. Thereafter, the members of the board  
10 subsequently appointed shall be licensed before appointment. The  
11 three members of the board of tree experts shall be appointed for a  
12 term of three years, and one of the initial tree care operators shall be  
13 appointed for a term of three years; the remaining two initial tree  
14 experts and the remaining initial tree care operator shall be  
15 appointed for a term of two years; and the initial member  
16 possessing knowledge of arboriculture or forestry shall be  
17 appointed for a term of one year. Thereafter, all members  
18 appointed shall serve for terms of three years or until their  
19 successors are appointed and qualified. Vacancies shall be filled  
20 for the unexpired terms only.

21

22 4. The board shall annually elect from among its members a  
23 chairman and a vice-chairman. The board shall meet at least four  
24 times per year and may hold additional meetings as necessary to  
25 discharge its duties. A majority of the total authorized membership  
26 of the board may exercise any of the powers of the board at any  
27 meeting. The members of the board shall serve without  
28 compensation, but the board may, within the limits of funds  
29 appropriated or otherwise made available to it, reimburse members  
30 for actual expenses necessarily incurred in the discharge of their  
31 official duties <sup>2</sup>, according to rules and regulations promulgated by  
32 the Commissioner of the Department of Environmental Protection<sup>2</sup>.

33

34 5. The board shall:

35 a. Review the qualifications of an applicant for licensure under  
36 the act;

37 b. Establish standards for examinations for licensure;

38 c. Issue and renew licenses and assess fees therefor;

39 d. Establish standards by regulation, which shall include, but  
40 not be limited to, the appropriate standards of the American  
41 National Standards Institute (ANSI), and any related standards and  
42 best management practices;

43 e. Suspend or revoke licenses or registrations for violations of  
44 the act;

45 f. Maintain a registry of licensees;

46 g. Adopt a canon of professional ethics;

47 h. Adopt such regulations as may be necessary to effectuate the  
48 purposes of the act;

1 i. Establish fees by regulation for examinations, applications  
2 for licensure, and license renewals. The fees shall be sufficient to  
3 defray expenses incurred by the board in the performance of its  
4 duties under the act;

5 j. Conduct such worksite inspections as may be necessary to  
6 enforce the provisions of this act; and

7 k. Maintain a registry of businesses engaged in tree care  
8 services, and charge a fee therefor.

9  
10 6. The board shall develop an examination or designate  
11 examinations to evaluate the knowledge, ability, and fitness of  
12 applicants to perform as tree experts or tree care operators,  
13 respectively, and shall administer the examinations at least semi-  
14 annually at times and places to be determined by the board. The  
15 board shall provide for adequate written notice of the time and  
16 place of the examinations. An applicant who fails an examination  
17 may not retake the examination earlier than three months following  
18 the initial examination. There shall be no limitation on the number  
19 of times an examination may be taken. All licenses shall be issued  
20 on a biennial basis. A person may seek renewal of a license upon  
21 submission of a renewal application and the payment of a renewal  
22 fee established by the board. If a license expires without being  
23 renewed, the license may be renewed within one year of expiration  
24 upon the payment of a prorated fee. The determination of the board  
25 as to an applicant's qualifications for any examination shall  
26 constitute final agency action.

27  
28 7. a. No person shall present himself to the public as a licensed  
29 tree expert or use the designation "L.T.E.," without licensure by the  
30 board. A person shall not be eligible for licensure pursuant to this  
31 subsection until the final promulgation of initial regulations by the  
32 board to carry out the provisions of this act. A candidate for  
33 licensure shall:

34 (1) be at least 18 years of age;

35 (2) be of good moral character;

36 (3) (a) be a graduate from a four year college with a degree in  
37 forestry, arboriculture, ornamental horticulture, natural resources,  
38 or any other curriculum approved by the board; or

39 (b) have completed two years of college and passed courses  
40 approved by the board, and have been continuously employed in the  
41 practice of arboriculture for a period of at least three years  
42 preceding the date of his application for licensure; or

43 (c) be continuously employed in the practice of arboriculture for  
44 at least five years immediately preceding the date of application for  
45 licensure; and

46 (4) except as provided in subsection c. of this section, have  
47 passed an examination established or designated by the board.

1       b. No person shall present himself to the public as a licensed  
2 tree care operator or use the designation "L.T.C.O.," without  
3 licensure by the board. A person shall not be eligible for licensure  
4 pursuant to this subsection until the final promulgation of initial  
5 regulations by the board to carry out the provisions of this act. A  
6 candidate for licensure shall:

- 7       (1) be at least 18 years of age;  
8       (2) be of good moral character;  
9       (3) (a) be a graduate from a four year college with a degree in  
10 arboriculture or an equivalent major field of study, and have been  
11 continuously employed in the practice of arboriculture for a period  
12 of at least one year preceding the date of his application for  
13 licensure; or  
14       (b) be a graduate from a two year college with a degree in  
15 arboriculture or an equivalent major field of study, and have been  
16 continuously employed in the practice of arboriculture for a period  
17 of at least two years preceding the date of his application for  
18 licensure; or  
19       (c) be continuously employed in the practice of arboriculture for  
20 at least three years preceding the date of his application for  
21 licensure; and  
22       (4) except as provided in subsection c. of this section, have  
23 passed an examination established by the board.

24       c. Notwithstanding the provisions of subsections a. and b., for  
25 360 days after the date regulations are promulgated pursuant to the  
26 provisions of this act:

- 27       (1) any person of good moral character who has received  
28 certification as a tree expert pursuant to P.L.1940, c.100 (C.  
29 45:15C-1 et seq.) before the date of its repeal may, if in good  
30 standing with the board, acquire a license as a tree expert without  
31 sitting for an examination pursuant to subsection a. of this section  
32 pursuant to regulations established by the board; and  
33       (2) any person of good moral character who has documented to  
34 the satisfaction of the board that he has been engaged in the practice  
35 of arboriculture for seven years preceding the effective date of this  
36 act may acquire a license as a tree care operator without sitting for  
37 an examination pursuant to subsection b. of this section, pursuant to  
38 regulations established by the board.

39       Licenses issued pursuant to this subsection shall be renewed  
40 biennially.

41       d. Persons licensed under this act shall receive a certificate  
42 evidencing their licensure.

43       e. Any person licensed as a tree care operator may  
44 subsequently apply for licensure as a tree expert upon meeting the  
45 qualifications for licensure.

46  
47       8. a. Applications for licenses as a tree expert or a tree care  
48 operator shall be on forms prescribed and furnished by the board

1 and shall contain statements under oath showing the applicant's  
2 education or other qualification for licensure. The application shall  
3 be accompanied by an application fee as established by the board by  
4 regulation. No license shall be issued in the name of a corporation,  
5 firm, partnership, or other form of business organization.

6 b. The board shall maintain a record of all individual applicants  
7 for licensure and all licensees, including the persons' name, age,  
8 education, and other qualifications, the person's place of residence,  
9 the location in which the person is employed, and a record of the  
10 person's fulfillment of any continuing education requirements  
11 established by this act.

12 c. The board may, in its discretion, grant a tree expert license  
13 or a tree care operator license to any person who is not a resident of  
14 this State and who is the lawful holder of a substantially equivalent  
15 license or certification issued by another jurisdiction, as determined  
16 by the board.

17

18 9. a. Every licensed tree expert and licensed tree care operator  
19 shall complete, as a condition for biennial license renewal, no less  
20 than 32 credits of continuing education in courses of study  
21 approved by the board. Each hour of instruction shall be equivalent  
22 to one credit. The board may waive requirements for continuing  
23 education on an individual basis for reasons of hardship such as  
24 illness or disability or other good cause. Evidence of the fulfillment  
25 of this requirement shall be submitted to the board in a form and  
26 manner established by the board.

27 b. The board shall review the content of courses of study  
28 offered by colleges, universities, and other institutions or  
29 organizations for the awarding of degrees or credits in subjects  
30 related to arboriculture and make the list available to the public.  
31 The board shall establish and maintain minimum requirements for  
32 courses to meet continuing education requirements by establishing a  
33 list of approved subjects and courses of study.

34

35 10. In rendering professional services, a licensed tree expert or  
36 licensed tree care operator shall comply in all respects with the  
37 applicable laws and regulations pertaining to tree expert or tree care  
38 operator services and shall have the duty to make every reasonable  
39 effort to protect the safety, health, property, and welfare of the  
40 public. This shall include ensuring the safe operation of all  
41 equipment used in the performance of tree expert or tree care  
42 operator services, under guidelines established by the Department  
43 of Environmental Protection or by the board.

44

45 11. The board may refuse to issue or renew or may suspend or  
46 revoke a license or may refuse to admit a person to an examination  
47 for licensure, after notice and hearing, upon a finding that an  
48 applicant or licensee:



- 1 a. Has obtained a license or authorization to sit for an
- 2 examination through fraud, deception, or misrepresentation;
- 3 b. Has conducted work, or allowed work to be conducted under
- 4 his supervision, in a manner not in compliance with standards
- 5 approved by the board;
- 6 c. Has engaged in the use of dishonesty, fraud, deception,
- 7 misrepresentation, false promise, or false pretense in the course of
- 8 his business;
- 9 d. Has engaged in gross negligence or gross incompetence;
- 10 e. Has engaged in repeated acts of negligence or incompetence;
- 11 f. Has engaged in occupational misconduct, as determined by
- 12 the board;
- 13 g. Has been convicted of any crime involving moral turpitude,
- 14 any crime relating adversely to the activities regulated by the board,
- 15 or any crime of the first, second, third, or fourth degree;
- 16 h. Has had his authority to engage in the activities regulated by
- 17 the board revoked or suspended by any other state, agency, or
- 18 authority;
- 19 i. Has failed to comply with the provisions of this act or any
- 20 regulation promulgated pursuant thereto, including canons of ethics
- 21 established by the board;
- 22 j. Is incapable, for medical or any other good cause, of
- 23 discharging the functions of a licensee in a manner consistent with
- 24 the health, safety, and welfare of the public;
- 25 k. Has engaged in any form of false or misleading advertising
- 26 or promotional activities, including, but not limited to, holding
- 27 himself out to be a licensed tree expert, an arborist, licensed tree
- 28 care operator, a tree surgeon, a tree care business, or any similar
- 29 designation, or using the abbreviation "L.T.E." or "L.T.C.O."
- 30 without being licensed as a tree expert or a tree care operator as
- 31 provided for in this act; or
- 32 l. Has failed to maintain records required by the board.

33  
34 12. Every business engaged in providing tree expert or tree care  
35 operator services shall register biennially with the board as a  
36 condition of doing business in this State and shall provide the  
37 following information:

- 38 a. The name and residence of the owner or owners of the tree
- 39 care business;
- 40 b. The principal address of the tree care business, and any
- 41 branch office or subsidiary of the business;
- 42 c. The names and addresses of every licensed tree expert or
- 43 licensed tree care operator employed by the business and the
- 44 location of each such licensee, if at a branch office other than the
- 45 business' main office;
- 46 d. Proof of general liability insurance or a letter of credit of a
- 47 type and amount required by the board by regulation;

1 e. Proof of workers' compensation insurance coverage required  
2 pursuant to chapter 15 of Title 34 of the Revised Statutes;

3 f. Proof that at least one employee of the tree care business,  
4 located at the principal office of the tree care business shall be  
5 licensed either as a tree expert or tree care operator, and at least one  
6 employee of the tree care business, located at each branch office of  
7 the tree care business shall be licensed either as a tree expert or tree  
8 care operator; and

9 g. Any other information required by the board.

10

11 13. Every tree care business shall provide instruction and  
12 training for its employees in the proper use, inspection and  
13 maintenance of tools and equipment and shall require that safe  
14 working practices are observed in accordance with the appropriate  
15 standards of the American National Standards Institute (ANSI), as  
16 well as any additional standards designated by the board by  
17 regulation. Every tree care business shall submit documentation of  
18 its training program for employees to the board annually, which  
19 shall include a model tree safety program checklist, proof of general  
20 liability insurance coverage or a letter of credit in an amount  
21 established by the board, and proof of workers' compensation  
22 insurance.

23

24 14. The board may revoke or suspend a registration of any tree  
25 care business, after notice and hearing, that the business:

26 a. Has failed to demonstrate that the employer, or at least one  
27 employee in each principal office and branch location who is  
28 responsible for the supervision of workers in the performance of  
29 tree expert or tree care operator services, is in possession of a tree  
30 expert license or a tree care operator license;

31 b. Has failed to ensure the safe operation of all equipment used  
32 in the performance of tree expert or tree care operator services;

33 c. Has allowed work to be conducted in a manner not in  
34 compliance with standards approved by the board;

35 d. Has failed to provide instruction and training for its  
36 employees, as required by this act;

37 e. Has engaged in the use of dishonesty, fraud, deception,  
38 misrepresentation, false promise, or false pretense in the course of  
39 his business;

40 f. Has been found guilty of gross negligence or incompetence;

41 g. Has had the authority to engage in tree expert or tree care  
42 operator services revoked or suspended by any other state, agency,  
43 or authority;

44 h. Has failed to comply with the provisions of this act or any  
45 regulation promulgated pursuant thereto;

46 i. Has engaged in any form of false or misleading advertising  
47 or promotional activities; or

48 j. Has failed to maintain records required by the board.

1       15. In the performance of tree expert or tree care operator  
2 services, a licensed tree expert or licensed tree care operator and  
3 every tree care business shall cooperate fully with the Department  
4 of Environmental Protection and the board in an investigation or  
5 adjudication of an alleged violation of this law or any regulations  
6 promulgated pursuant thereto, and upon request, shall provide  
7 copies of any documents that shall be requested in connection  
8 therewith.

9  
10       16. Whenever it shall appear to the board or the Department of  
11 Environmental Protection that a person has engaged in, or is  
12 engaging in, any unlawful activity under the provisions of this act,  
13 the person may be required to file, on a form prescribed by  
14 regulation, a statement in writing under oath as to the facts and  
15 circumstances concerning the rendering of any service or other  
16 violation of this act. The board or the department may examine any  
17 person in connection with any act or practice subject to the act,  
18 inspect any premises upon which any violation is alleged to have  
19 taken place or premises that constitute the licensee's place of  
20 business, and examine any record, book, document, account or  
21 paper maintained by or for any licensee in the conduct of his  
22 business.

23  
24       17. Suspension or revocation of a license by the board shall take  
25 place only following notice and a hearing, sent to the licensee at  
26 least 20 days prior to the hearing. No license shall be revoked or  
27 suspended until the conclusion of any hearing. The board shall  
28 render its judgment no later than 20 days following the conclusion  
29 of the hearing.

30  
31       18. In addition to suspension or revocation of a license, the  
32 board may levy a fine, not to exceed \$1,000 for a first violation and  
33 not to exceed \$2,500 for a second or subsequent violation of this  
34 act. If the violation is of a continuing nature, each day during  
35 which it continues shall constitute an additional, separate, and  
36 distinct offense. The civil penalty shall be issued for and recovered  
37 by and in the name of the board, and shall be collected by summary  
38 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
39 P.L.1999, c.274 (C.2A:58:10 et seq.), including reimbursement for  
40 the cost of investigation.

41  
42       19. Whenever it shall appear to the board or the Department of  
43 Environmental Protection that a violation of this act has occurred, is  
44 occurring, or will occur, the Attorney General, in addition to any  
45 other proceeding authorized by law, may seek and obtain in a  
46 summary proceeding in the Superior Court an injunction prohibiting  
47 the act or practice. The court may assess a civil penalty in

1 accordance with the provisions of this act, but the court shall not  
2 suspend or revoke any license issued by the board.

3

4 20. Any person aggrieved by an order or finding by the board or  
5 the commissioner may appeal the order or finding to the Superior  
6 Court.

7

8 21. The provisions of this act shall not apply to:

9 a. Any public utility or any employee of a public utility while  
10 engaged in the actual performance of his duties as an employee;

11 b. Any employer under contract with a public utility who is  
12 engaged in tree trimming or any other utility vegetation  
13 management practice for purpose of line clearance, or any employee  
14 of the employer while engaged in the actual performance of duties  
15 in regard to tree trimming or other utility vegetation management  
16 practice or for the installation of underground facilities or  
17 associated site construction;

18 c. Any forestry activities that are conducted under the forest  
19 management and stewardship programs approved by the State  
20 Forester, provided that tree climbing is not performed, nor are aerial  
21 lifts, cranes, or rope and rigging operations used;

22 d. Landscape construction activities, including those performed  
23 by, or under the direction of, a landscape architect, or ground based  
24 landscape maintenance activities such as pruning, fertilization,  
25 insect and disease control, planting, transplanting and all other  
26 forms of ground based landscape maintenance, in compliance with  
27 the sections of the American National Standards Institute <sup>1</sup>~~["Practice~~  
28 ~~Standards"]~~ practice standards<sup>1</sup> set forth by the board by regulation,  
29 with applicable safety standards and regulations promulgated by the  
30 federal Occupational Safety and Health Administration, and with  
31 any pesticide regulations promulgated by the Department of  
32 Environmental Protection. For the purposes of this subsection,  
33 ground based landscape maintenance means operations that do not  
34 involve climbing, the use of aerial lifts, cranes, rope and rigging  
35 operations, or the removal of trees over 6 inch D.B.H;

36 e. Any person or employer that does not offer tree care services  
37 for hire; <sup>1</sup>~~["and"]~~<sup>1</sup>

38 f. Any trees being removed pursuant to an approved site plan  
39 or subdivision approval <sup>1</sup>, provided that the tree removal activities  
40 are performed in compliance with the sections of the American  
41 National Standards Institute practice standards set forth by the  
42 board by regulation, with applicable safety standards and  
43 regulations promulgated by the federal Occupational Safety and  
44 Health Administration, and with applicable safety standards of the  
45 American National Standards Institute as designated by the board  
46 by regulation; and

1       g. Any employee of a municipality or county while engaged in  
2 the actual performance of his duties as an employee<sup>1</sup>.

3

4       22. All fees and penalties collected pursuant to this act shall be  
5 deposited with the board, and their use shall be authorized by the  
6 board for the purposes of carrying out the provisions of this act.

7

8       23. The following are repealed:

9       P.L.1940, c.100 (C.45:15C-1 et seq.); and

10       Sections 7 and 8 of P.L.1996, c.20 (C.45:15C-2.1 and -7.1).

11

12       24. This act shall take effect immediately, except for section 23,  
13 which shall take effect upon the final promulgation of initial  
14 regulations by the board necessary to carry out the provisions of  
15 this act.

# ASSEMBLY, No. 2872

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 22, 2008

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman RONALD S. DANCER**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman CONNIE WAGNER**

**District 38 (Bergen)**

**SYNOPSIS**

"Tree Experts and Tree Care Operators Licensing Act."

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/6/2008)

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28 removal, tree establishment, fertilization, cabling and bracing,  
29 lightning protection, consulting, diagnosis, and treatment of tree  
30 problems or diseases, tree management during site planning and  
31 development, tree assessment and risk management, and application  
32 of pesticides or any other form of tree maintenance.

33  
34 3. There is established in the Department of Environmental  
35 Protection the New Jersey Board of Tree Experts. The board shall  
36 consist of nine members, including the Commissioner of the  
37 Department of Environmental Protection or the commissioner's  
38 designee, who shall serve ex officio, and eight members, appointed  
39 by the Governor with the advise and consent of the Senate as  
40 follows: five shall be licensed tree experts, two shall be licensed  
41 tree care operators, and one shall possess knowledge of  
42 arboriculture or forestry, including urban forestry. However, of the  
43 public members first appointed, three of the five licensed tree  
44 expert memberships shall be appointed from the members of the  
45 board of tree experts established by P.L.1940, c.100 (C.45:15-1 et  
46 seq.), participating on the board on the date of enactment of this act,  
47 and the remaining tree experts first appointed shall be certified, on  
48 or before the date of enactment of this act, pursuant to the

1 provisions of P.L.1940, c.100 (C. 45:15C-1 et seq.). The initial  
2 members of the board, including the tree care operators first  
3 appointed, need not be licensed until 180 days following the  
4 promulgation of initial regulations by the board to carry out the  
5 provisions of this act. Thereafter, the members of the board  
6 subsequently appointed shall be licensed before appointment. The  
7 three members of the board of tree experts shall be appointed for a  
8 term of three years, and one of the initial tree care operators shall be  
9 appointed for a term of three years; the remaining two initial tree  
10 experts and the remaining initial tree care operator shall be  
11 appointed for a term of two years; and the initial member  
12 possessing knowledge of arboriculture or forestry shall be  
13 appointed for a term of one year. Thereafter, all members  
14 appointed shall serve for terms of three years or until their  
15 successors are appointed and qualified. Vacancies shall be filled  
16 for the unexpired terms only.

17

18 4. The board shall annually elect from among its members a  
19 chairman and a vice-chairman. The board shall meet at least four  
20 times per year and may hold additional meetings as necessary to  
21 discharge its duties. A majority of the total authorized membership  
22 of the board may exercise any of the powers of the board at any  
23 meeting. The members of the board shall serve without  
24 compensation, but the board may, within the limits of funds  
25 appropriated or otherwise made available to it, reimburse members  
26 for actual expenses necessarily incurred in the discharge of their  
27 official duties.

28

29 5. The board shall:

30 a. Review the qualifications of an applicant for licensure under  
31 the act;

32 b. Establish standards for examinations for licensure;

33 c. Issue and renew licenses and assess fees therefor;

34 d. Establish standards by regulation, which shall include, but not  
35 be limited to, the appropriate standards of the American National  
36 Standards Institute (ANSI), and any related standards and best  
37 management practices;

38 e. Suspend or revoke licenses or registrations for violations of  
39 the act;

40 f. Maintain a registry of licensees;

41 g. Adopt a canon of professional ethics;

42 h. Adopt such regulations as may be necessary to effectuate the  
43 purposes of the act;

44 i. Establish fees by regulation for examinations, applications for  
45 licensure, and license renewals. The fees shall be sufficient to  
46 defray expenses incurred by the board in the performance of its  
47 duties under the act;



1 j. Conduct such worksite inspections as may be necessary to  
2 enforce the provisions of this act; and

3 k. Maintain a registry of businesses engaged in tree care  
4 services, and charge a fee therefor.

5  
6 6. The board shall develop an examination or designate  
7 examinations to evaluate the knowledge, ability, and fitness of  
8 applicants to perform as tree experts or tree care operators,  
9 respectively, and shall administer the examinations at least semi-  
10 annually at times and places to be determined by the board. The  
11 board shall provide for adequate written notice of the time and  
12 place of the examinations. An applicant who fails an examination  
13 may not retake the examination earlier than three months following  
14 the initial examination. There shall be no limitation on the number  
15 of times an examination may be taken. All licenses shall be issued  
16 on a biennial basis. A person may seek renewal of a license upon  
17 submission of a renewal application and the payment of a renewal  
18 fee established by the board. If a license expires without being  
19 renewed, the license may be renewed within one year of expiration  
20 upon the payment of a prorated fee. The determination of the board  
21 as to an applicant's qualifications for any examination shall  
22 constitute final agency action.

23  
24 7. a. No person shall present himself to the public as a licensed  
25 tree expert or use the designation "L.T.E.," without licensure by the  
26 board. A person shall not be eligible for licensure pursuant to this  
27 subsection until the final promulgation of initial regulations by the  
28 board to carry out the provisions of this act. A candidate for  
29 licensure shall:

30 (1) be at least 18 years of age;

31 (2) be of good moral character;

32 (3) (a) be a graduate from a four year college with a degree in  
33 forestry, arboriculture, ornamental horticulture, natural resources,  
34 or any other curriculum approved by the board; or

35 (b) have completed two years of college and passed courses  
36 approved by the board, and have been continuously employed in the  
37 practice of arboriculture for a period of at least three years  
38 preceding the date of his application for licensure; or

39 (c) be continuously employed in the practice of arboriculture for  
40 at least five years immediately preceding the date of application for  
41 licensure; and

42 (4) except as provided in subsection c. of this section, have  
43 passed an examination established or designated by the board.

44 b. No person shall present himself to the public as a licensed  
45 tree care operator or use the designation "L.T.C.O.," without  
46 licensure by the board. A person shall not be eligible for licensure  
47 pursuant to this subsection until the final promulgation of initial

1 regulations by the board to carry out the provisions of this act. A  
2 candidate for licensure shall:

- 3 (1) be at least 18 years of age;
- 4 (2) be of good moral character;
- 5 (3) (a) be a graduate from a four year college with a degree in  
6 arboriculture or an equivalent major field of study, and have been  
7 continuously employed in the practice of arboriculture for a period  
8 of at least one year preceding the date of his application for  
9 licensure; or
- 10 (b) be a graduate from a two year college with a degree in  
11 arboriculture or an equivalent major field of study, and have been  
12 continuously employed in the practice of arboriculture for a period  
13 of at least two years preceding the date of his application for  
14 licensure; or
- 15 (c) be continuously employed in the practice of arboriculture for  
16 at least three years preceding the date of his application for  
17 licensure; and
- 18 (4) except as provided in subsection c. of this section, have  
19 passed an examination established by the board.

20 c. Notwithstanding the provisions of subsections a. and b., for  
21 360 days after the date regulations are promulgated pursuant to the  
22 provisions of this act:

- 23 (1) any person of good moral character who has received  
24 certification as a tree expert pursuant to P.L.1940, c.100 (C.  
25 45:15C-1 et seq.) before the date of its repeal may, if in good  
26 standing with the board, acquire a license as a tree expert without  
27 sitting for an examination pursuant to subsection a. of this section  
28 pursuant to regulations established by the board; and
- 29 (2) any person of good moral character who has documented to  
30 the satisfaction of the board that he has been engaged in the practice  
31 of arboriculture for seven years preceding the effective date of this  
32 act may acquire a license as a tree care operator without sitting for  
33 an examination pursuant to subsection b. of this section, pursuant to  
34 regulations established by the board.

35 Licenses issued pursuant to this subsection shall be renewed  
36 biennially.

37 d. Persons licensed under this act shall receive a certificate  
38 evidencing their licensure.

39 e. Any person licensed as a tree care operator may subsequently  
40 apply for licensure as a tree expert upon meeting the qualifications  
41 for licensure.

42

43 8. a. Applications for licenses as a tree expert or a tree care  
44 operator shall be on forms prescribed and furnished by the board  
45 and shall contain statements under oath showing the applicant's  
46 education or other qualification for licensure. The application shall  
47 be accompanied by an application fee as established by the board by

1 regulation. No license shall be issued in the name of a corporation,  
2 firm, partnership, or other form of business organization.

3 b. The board shall maintain a record of all individual applicants  
4 for licensure and all licensees, including the persons' name, age,  
5 education, and other qualifications, the person's place of residence,  
6 the location in which the person is employed, and a record of the  
7 person's fulfillment of any continuing education requirements  
8 established by this act.

9 c. The board may, in its discretion, grant a tree expert license or  
10 a tree care operator license to any person who is not a resident of  
11 this State and who is the lawful holder of a substantially equivalent  
12 license or certification issued by another jurisdiction, as determined  
13 by the board.

14

15 9. a. Every licensed tree expert and licensed tree care operator  
16 shall complete, as a condition for biennial license renewal, no less  
17 than 32 credits of continuing education in courses of study  
18 approved by the board. Each hour of instruction shall be equivalent  
19 to one credit. The board may waive requirements for continuing  
20 education on an individual basis for reasons of hardship such as  
21 illness or disability or other good cause. Evidence of the fulfillment  
22 of this requirement shall be submitted to the board in a form and  
23 manner established by the board.

24 b. The board shall review the content of courses of study offered  
25 by colleges, universities, and other institutions or organizations for  
26 the awarding of degrees or credits in subjects related to  
27 arboriculture and make the list available to the public. The board  
28 shall establish and maintain minimum requirements for courses to  
29 meet continuing education requirements by establishing a list of  
30 approved subjects and courses of study.

31

32 10. In rendering professional services, a licensed tree expert or  
33 licensed tree care operator shall comply in all respects with the  
34 applicable laws and regulations pertaining to tree expert or tree care  
35 operator services and shall have the duty to make every reasonable  
36 effort to protect the safety, health, property, and welfare of the  
37 public. This shall include ensuring the safe operation of all  
38 equipment used in the performance of tree expert or tree care  
39 operator services, under guidelines established by the Department  
40 of Environmental Protection or by the board.

41

42 11. The board may refuse to issue or renew or may suspend or  
43 revoke a license or may refuse to admit a person to an examination  
44 for licensure, after notice and hearing, upon a finding that an  
45 applicant or licensee:

46 a. Has obtained a license or authorization to sit for an  
47 examination through fraud, deception, or misrepresentation;

- 1       b. Has conducted work, or allowed work to be conducted under
- 2 his supervision, in a manner not in compliance with standards
- 3 approved by the board;
- 4       c. Has engaged in the use of dishonesty, fraud, deception,
- 5 misrepresentation, false promise, or false pretense in the course of
- 6 his business;
- 7       d. Has engaged in gross negligence or gross incompetence;
- 8       e. Has engaged in repeated acts of negligence or incompetence;
- 9       f. Has engaged in occupational misconduct, as determined by
- 10 the board;
- 11       g. Has been convicted of any crime involving moral turpitude,
- 12 any crime relating adversely to the activities regulated by the board,
- 13 or any crime of the first, second, third, or fourth degree;
- 14       h. Has had his authority to engage in the activities regulated by
- 15 the board revoked or suspended by any other state, agency, or
- 16 authority;
- 17       i. Has failed to comply with the provisions of this act or any
- 18 regulation promulgated pursuant thereto, including canons of ethics
- 19 established by the board;
- 20       j. Is incapable, for medical or any other good cause, of
- 21 discharging the functions of a licensee in a manner consistent with
- 22 the health, safety, and welfare of the public;
- 23       k. Has engaged in any form of false or misleading advertising or
- 24 promotional activities, including, but not limited to, holding himself
- 25 out to be a licensed tree expert, an arborist, licensed tree care
- 26 operator, a tree surgeon, a tree care business, or any similar
- 27 designation, or using the abbreviation "L.T.E." or "L.T.C.O."
- 28 without being licensed as a tree expert or a tree care operator as
- 29 provided for in this act; or
- 30       l. Has failed to maintain records required by the board.
- 31
- 32       12. Every business engaged in providing tree expert or tree care
- 33 operator services shall register biennially with the board as a
- 34 condition of doing business in this State and shall provide the
- 35 following information:
- 36       a. The name and residence of the owner or owners of the tree
- 37 care business;
- 38       b. The principal address of the tree care business, and any
- 39 branch office or subsidiary of the business;
- 40       c. The names and addresses of every licensed tree expert or
- 41 licensed tree care operator employed by the business and the
- 42 location of each such licensee, if at a branch office other than the
- 43 business' main office;
- 44       d. Proof of general liability insurance or a letter of credit of a
- 45 type and amount required by the board by regulation;
- 46       e. Proof of workers' compensation insurance coverage required
- 47 pursuant to chapter 15 of Title 34 of the Revised Statutes;

1 f. Proof that at least one employee of the tree care business,  
2 located at the principal office of the tree care business shall be  
3 licensed either as a tree expert or tree care operator, and at least one  
4 employee of the tree care business, located at each branch office of  
5 the tree care business shall be licensed either as a tree expert or tree  
6 care operator; and

7 g. Any other information required by the board.

8  
9 13. Every tree care business shall provide instruction and  
10 training for its employees in the proper use, inspection and  
11 maintenance of tools and equipment and shall require that safe  
12 working practices are observed in accordance with the appropriate  
13 standards of the American National Standards Institute (ANSI), as  
14 well as any additional standards designated by the board by  
15 regulation. Every tree care business shall submit documentation of  
16 its training program for employees to the board annually, which  
17 shall include a model tree safety program checklist, proof of general  
18 liability insurance coverage or a letter of credit in an amount  
19 established by the board, and proof of workers' compensation  
20 insurance.

21  
22 14. The board may revoke or suspend a registration of any tree  
23 care business, after notice and hearing, that the business:

24 a. Has failed to demonstrate that the employer, or at least one  
25 employee in each principal office and branch location who is  
26 responsible for the supervision of workers in the performance of  
27 tree expert or tree care operator services, is in possession of a tree  
28 expert license or a tree care operator license;

29 b. Has failed to ensure the safe operation of all equipment used  
30 in the performance of tree expert or tree care operator services;

31 c. Has allowed work to be conducted in a manner not in  
32 compliance with standards approved by the board;

33 d. Has failed to provide instruction and training for its  
34 employees, as required by this act;

35 e. Has engaged in the use of dishonesty, fraud, deception,  
36 misrepresentation, false promise, or false pretense in the course of  
37 his business;

38 f. Has been found guilty of gross negligence or incompetence;

39 g. Has had the authority to engage in tree expert or tree care  
40 operator services revoked or suspended by any other state, agency,  
41 or authority;

42 h. Has failed to comply with the provisions of this act or any  
43 regulation promulgated pursuant thereto;

44 i. Has engaged in any form of false or misleading advertising or  
45 promotional activities; or

46 j. Has failed to maintain records required by the board.

1       15. In the performance of tree expert or tree care operator  
2 services, a licensed tree expert or licensed tree care operator and  
3 every tree care business shall cooperate fully with the Department  
4 of Environmental Protection and the board in an investigation or  
5 adjudication of an alleged violation of this law or any regulations  
6 promulgated pursuant thereto, and upon request, shall provide  
7 copies of any documents that shall be requested in connection  
8 therewith.

9  
10       16. Whenever it shall appear to the board or the Department of  
11 Environmental Protection that a person has engaged in, or is  
12 engaging in, any unlawful activity under the provisions of this act,  
13 the person may be required to file, on a form prescribed by  
14 regulation, a statement in writing under oath as to the facts and  
15 circumstances concerning the rendering of any service or other  
16 violation of this act. The board or the department may examine any  
17 person in connection with any act or practice subject to the act,  
18 inspect any premises upon which any violation is alleged to have  
19 taken place or premises that constitute the licensee's place of  
20 business, and examine any record, book, document, account or  
21 paper maintained by or for any licensee in the conduct of his  
22 business.

23  
24       17. Suspension or revocation of a license by the board shall take  
25 place only following notice and a hearing, sent to the licensee at  
26 least 20 days prior to the hearing. No license shall be revoked or  
27 suspended until the conclusion of any hearing. The board shall  
28 render its judgment no later than 20 days following the conclusion  
29 of the hearing.

30  
31       18. In addition to suspension or revocation of a license, the  
32 board may levy a fine, not to exceed \$1,000 for a first violation and  
33 not to exceed \$2,500 for a second or subsequent violation of this  
34 act. If the violation is of a continuing nature, each day during  
35 which it continues shall constitute an additional, separate, and  
36 distinct offense. The civil penalty shall be issued for and recovered  
37 by and in the name of the board, and shall be collected by summary  
38 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
39 P.L.1999, c.274 (C.2A:58:10 et seq.), including reimbursement for  
40 the cost of investigation.

41  
42       19. Whenever it shall appear to the board or the Department of  
43 Environmental Protection that a violation of this act has occurred, is  
44 occurring, or will occur, the Attorney General, in addition to any  
45 other proceeding authorized by law, may seek and obtain in a  
46 summary proceeding in the Superior Court an injunction prohibiting  
47 the act or practice. The court may assess a civil penalty in

1 accordance with the provisions of this act, but the court shall not  
2 suspend or revoke any license issued by the board.

3

4 20. Any person aggrieved by an order or finding by the board or  
5 the commissioner may appeal the order or finding to the Superior  
6 Court.

7

8 21. The provisions of this act shall not apply to:

9 a. Any public utility or any employee of a public utility while  
10 engaged in the actual performance of his duties as an employee;

11 b. Any employer under contract with a public utility who is  
12 engaged in tree trimming or any other utility vegetation  
13 management practice for purpose of line clearance, or any employee  
14 of the employer while engaged in the actual performance of duties  
15 in regard to tree trimming or other utility vegetation management  
16 practice or for the installation of underground facilities or  
17 associated site construction;

18 c. Any forestry activities that are conducted under the forest  
19 management and stewardship programs approved by the State  
20 Forester, provided that tree climbing is not performed, nor are aerial  
21 lifts, cranes, or rope and rigging operations used;

22 d. Landscape construction activities, including those performed  
23 by, or under the direction of, a landscape architect, or ground based  
24 landscape maintenance activities such as pruning, fertilization,  
25 insect and disease control, planting, transplanting and all other  
26 forms of ground based landscape maintenance, in compliance with  
27 the sections of the American National Standards Institute Practice  
28 Standards set forth by the board by regulation, with applicable  
29 safety standards and regulations promulgated by the federal  
30 Occupational Safety and Health Administration, and with any  
31 pesticide regulations promulgated by the Department of  
32 Environmental Protection. For the purposes of this subsection,  
33 ground based landscape maintenance means operations that do not  
34 involve climbing, the use of aerial lifts, cranes, rope and rigging  
35 operations, or the removal of trees over 6 inch D.B.H;

36 e. Any person or employer that does not offer tree care services  
37 for hire; and

38 f. Any trees being removed pursuant to an approved site plan or  
39 subdivision approval.

40

41 22. All fees and penalties collected pursuant to this act shall be  
42 deposited with the board, and their use shall be authorized by the  
43 board for the purposes of carrying out the provisions of this act.

44

45 23. The following are repealed:

46 P.L.1940, c.100 (C.45:15C-1 et seq.); and

47 Sections 7 and 8 of P.L.1996, c.20 (C.45:15C-2.1 and -7.1).

1       24. This act shall take effect immediately, except for section 23,  
2 which shall take effect upon the final promulgation of initial  
3 regulations by the board necessary to carry out the provisions of  
4 this act.

5

6

7

STATEMENT

8

9       This bill, to be known and cited as the "Tree Experts and Tree  
10 Care Operators Licensing Act," repeals the "tree expert act,"  
11 P.L.1940, c.100 (C.45:15C-1 et seq.), and provides an entirely new  
12 licensing scheme for persons providing tree care services. The bill  
13 establishes the title "licensed tree expert," instead of the title of  
14 "certified tree expert," as used in the current law, and creates a new  
15 license for "tree care operators." The bill establishes the New  
16 Jersey Board of Tree Experts within the Department of  
17 Environmental Protection with nine members. The current board is  
18 also within the Department of Environmental Protection with three  
19 members.

20       Tree expert services include tree pruning, repairing, brush  
21 cutting or removal, tree removal, stump grinding or removal, tree  
22 establishment, fertilization, cabling and bracing, lightning  
23 protection, consulting, diagnosis, and treatment of tree problems or  
24 diseases, tree management during site planning and development,  
25 tree assessment and risk management, and application of pesticides  
26 or any other form of tree maintenance. By comparison, tree care  
27 operator services include tree pruning, repairing, brush cutting or  
28 removal, tree removal, and stump grinding or removal.

29       The bill provides that, to become a licensed tree expert, one  
30 must: graduate from a four-year college with a degree in  
31 horticulture, arboriculture, ornamental horticulture, natural  
32 resources or any other curriculum approved by the board; or  
33 complete two years of college and pass courses approved by the  
34 board, and have been continuously employed in the practice of  
35 arboriculture for a period of at least three years preceding the date  
36 of application for licensure; or be continuously employed in the  
37 practice of arboriculture for at least five years immediately  
38 preceding the date of application for licensure; and pass an  
39 examination established or designated by the board.

40       To be eligible for licensure as a tree care operator, an applicant  
41 shall: have graduated from a four-year college with a degree in  
42 arboriculture or an equivalent major field of study and have been  
43 continuously employed in the field of arboriculture for a period of  
44 at least one year preceding the date of his application; or have  
45 graduated from a two-year college with a degree in arboriculture or  
46 an equivalent major field of study and have been continuously  
47 employed in the practice of arboriculture for a period of at least two  
48 years preceding the date of application; or have been continuously



1 employed in the field of arboriculture for at least three years  
2 preceding the date of application; and pass an examination  
3 established by the board.

4 In addition, the bill requires licensed tree experts and licensed  
5 tree care operators to complete continuing education requirements  
6 as a condition of biennial license renewal. The educational course  
7 of study shall be approved by the board and shall include 32 hours  
8 of continuing education, with each hour of instruction equivalent to  
9 one credit. Waivers of these continuing education requirements  
10 may be granted by the board on an individual basis due to illness or  
11 disability, or other good cause.

12 This bill also stipulates that every business engaged in providing  
13 tree expert or tree care operator services shall register with the  
14 board. The bill requires that every tree care business shall provide  
15 instruction and training for employees on use, inspection and  
16 maintenance of tools, and shall require that safe working practices  
17 are observed in accordance with the appropriate standards of the  
18 American National Standards Institute (ANSI), as well as any  
19 additional standards designated by the board by regulation. Every  
20 tree care business shall submit documentation of its training  
21 program for employees to the board annually, which shall include a  
22 model tree safety program checklist, proof of general liability  
23 insurance coverage or a letter of credit in an amount established by  
24 the board, and proof of workers' compensation insurance required  
25 pursuant to chapter 15 of Title 34 of the Revised Statutes.

26 The bill exempts from its provisions: any public utility or any  
27 employee of a public utility while in the actual performance of his  
28 duties as an employee; any employer under contract with a public  
29 utility who is engaged in tree trimming or any other utility  
30 vegetation management practice for purpose of line clearance, or  
31 any employee of the employer while engaged in the actual  
32 performance of duties in regard to tree trimming or other utility  
33 vegetation management practice or for the installation of  
34 underground facilities or associated site construction; any forestry  
35 activities that are conducted under the forest management and  
36 stewardship programs approved by the State Forester, provided that  
37 tree climbing is not performed, nor are aerial lifts, cranes, or rope  
38 and rigging operations used; landscape construction activities; any  
39 person or employer that does not offer tree care services for hire;  
40 and any trees being removed pursuant to an approved site plan or  
41 subdivision approval.

42 The board and the Department of Environmental Protection are  
43 charged with administering the bill and may impose various  
44 sanctions, including fines, suspension or revocation of licenses, and  
45 obtaining injunctive relief, for violations of the bill's provisions.

# ASSEMBLY REGULATED PROFESSIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2872**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 5, 2008

The Assembly Regulated Professions Committee reports favorably and with committee amendments, Assembly Bill No. 2872.

As amended, this bill, to be known and cited as the "Tree Experts and Tree Care Operators Licensing Act," repeals the "tree expert act," P.L.1940, c.100 (C.45:15C-1 et seq.), and provides an entirely new licensing scheme for persons providing tree care services. The bill establishes the title "licensed tree expert," instead of the title of "certified tree expert," as used in the current law, and creates a new license for "tree care operators." The bill establishes the New Jersey Board of Tree Experts within the Department of Environmental Protection with nine members. The current board is also within the Department of Environmental Protection with three members.

Tree expert services include tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance. By comparison, tree care operator services include tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

The bill provides that, to become a licensed tree expert, one must: graduate from a four-year college with a degree in horticulture, arboriculture, ornamental horticulture, natural resources or any other curriculum approved by the board; or complete two years of college and pass courses approved by the board, and have been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of application for licensure; or be continuously employed in the practice of arboriculture for at least five years immediately preceding the date of application for licensure; and pass an examination established or designated by the board.

To be eligible for licensure as a tree care operator, an applicant shall: have graduated from a four-year college with a degree in arboriculture or an equivalent major field of study and have been continuously employed in the field of arboriculture for a period of at

least one year preceding the date of his application; or have graduated from a two-year college with a degree in arboriculture or an equivalent major field of study and have been continuously employed in the practice of arboriculture for a period of at least two years preceding the date of application; or have been continuously employed in the field of arboriculture for at least three years preceding the date of application; and pass an examination established by the board.

In addition, the bill requires licensed tree experts and licensed tree care operators to complete continuing education requirements as a condition of biennial license renewal. The educational course of study shall be approved by the board and shall include 32 hours of continuing education, with each hour of instruction equivalent to one credit. Waivers of these continuing education requirements may be granted by the board on an individual basis due to illness or disability, or other good cause.

This bill also stipulates that every business engaged in providing tree expert or tree care operator services shall register with the board. The bill requires that every tree care business shall provide instruction and training for employees on use, inspection and maintenance of tools, and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Every tree care business shall submit documentation of its training program for employees to the board annually, which shall include a model tree safety program checklist, proof of general liability insurance coverage or a letter of credit in an amount established by the board, and proof of workers' compensation insurance required pursuant to chapter 15 of Title 34 of the Revised Statutes.

The bill exempts from its provisions: any public utility or any employee of a public utility while in the actual performance of his duties as an employee; any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction; any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used; landscape construction activities; any person or employer that does not offer tree care services for hire; any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health

Administration, and with applicable safety standards of the American National Standards Institute as designated by the board by regulation; and any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

The board and the Department of Environmental Protection are charged with administering the bill and may impose various sanctions, including fines, suspension or revocation of licenses, and obtaining injunctive relief, for violations of the bill's provisions.

#### COMMITTEE AMENDMENTS

The committee amended the bill to exempt from the provisions of the bill any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

The bill originally stipulated that its provisions do not apply to any trees being removed pursuant to an approved site plan or subdivision approval. The committee amendments also delineate specific practice and safety standards that must be met when trees are being removed pursuant to an approved site plan or subdivision approval, in order to qualify for this exemption from the bill's provisions.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[Second Reprint]  
**ASSEMBLY, No. 2872**

# STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Commerce Committee reports favorably Assembly Bill No. 2872 (2R).

This bill, which shall be known and may be cited as the "Tree Experts and Tree Care Operators Licensing Act," repeals the "tree expert act," P.L.1940, c.100 (C.45:15C-1 et seq.), and provides an entirely new licensing scheme for persons providing tree care services. The bill establishes the title "licensed tree expert," instead of the title of "certified tree expert," as used in the current law, and creates a new license for "tree care operators." The bill establishes the New Jersey Board of Tree Experts within the Department of Environmental Protection with nine members. The current board is also within the Department of Environmental Protection with three members.

Tree expert services include tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance. By comparison, tree care operator services include tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

The bill provides that, to become a licensed tree expert, one must: graduate from a four-year college with a degree in horticulture, arboriculture, ornamental horticulture, natural resources or any other curriculum approved by the board; or complete two years of college and pass courses approved by the board, and have been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of application for licensure; or be continuously employed in the practice of arboriculture for at least five years immediately preceding the date of application for licensure; and pass an examination established or designated by the board.

To be eligible for licensure as a tree care operator, an applicant shall: have graduated from a four-year college with a degree in arboriculture or an equivalent major field of study and have been continuously employed in the field of arboriculture for a period of at

least one year preceding the date of his application; or have graduated from a two-year college with a degree in arboriculture or an equivalent major field of study and have been continuously employed in the practice of arboriculture for a period of at least two years preceding the date of application; or have been continuously employed in the field of arboriculture for at least three years preceding the date of application; and pass an examination established by the board.

In addition, the bill requires licensed tree experts and licensed tree care operators to complete continuing education requirements as a condition of biennial license renewal. The educational course of study shall be approved by the board and shall include no less than 32 hours of continuing education, with each hour of instruction equivalent to one credit. Waivers of these continuing education requirements may be granted by the board on an individual basis due to illness or disability, or other good cause.

This bill also stipulates that every business engaged in providing tree expert or tree care operator services shall register with the board. The bill requires that every tree care business shall provide instruction and training for employees on use, inspection and maintenance of tools, and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Every tree care business shall submit documentation of its training program for employees to the board annually, which shall include a model tree safety program checklist, proof of general liability insurance coverage or a letter of credit in an amount established by the board, and proof of workers' compensation insurance required pursuant to chapter 15 of Title 34 of the Revised Statutes.

The bill exempts from its provisions: any public utility or any employee of a public utility while in the actual performance of his duties as an employee; any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction; any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used; landscape construction activities; any person or employer that does not offer tree care services for hire; any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the ANSI practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with applicable

ANSI safety standards as designated by the board by regulation; and any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

The board and the Department of Environmental Protection are charged with administering the bill and may impose various sanctions, including fines, suspension or revocation of licenses, and obtaining injunctive relief, for violations of the bill's provisions.

This bill is identical to Senate Bill No. 2503, which is also reported by the committee today.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 2872**

with Assembly Floor Amendments  
(Proposed By Assemblyman PRIETO)

ADOPTED: JUNE 16, 2008

This section of the bill permits the reimbursement of members of the New Jersey Board of Tree Experts for actual expenses necessarily incurred in the discharge of their official duties. The amendment stipulates that these monies shall be paid according to rules and regulations promulgated by the Commissioner of the Department of Environmental Protection.



**FISCAL NOTE**  
[Second Reprint]  
**ASSEMBLY, No. 2872**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: OCTOBER 27, 2008

**SUMMARY**

**Synopsis:** "Tree Experts and Tree Care Operators Licensing Act."

**Type of Impact:** Offsetting increases in revenues and expenditures from the General Fund.

**Agencies Affected:** Department of Environmental Protection and the New Jersey Board of Tree Experts.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$230,100	\$278,000	\$288,900
<b>State Revenue</b>	\$216,000	\$283,000	\$283,000

- The Office of Legislative Services **concurs** with the Executive estimate.
- The bill repeals P.L.1940, c.100 (the "tree expert act"), establishes a nine-member New Jersey Board of Tree Experts to replace the current three-member board, and provides a new licensing system and eligibility criteria for persons providing tree care services.
- The bill establishes the title "licensed tree expert," replacing the existing title "certified tree expert," and creates a new license for "tree care operators."
- The bill directs the board and the Department of Environmental Protection (DEP) to administer the licensing program and authorizes the establishment of license fees to cover all program expenses.

**BILL DESCRIPTION**

Assembly Bill No. 2872 (2R) of 2008 repeals P.L.1940, c.100 and provides an entirely new licensing scheme and eligibility criteria for persons providing tree care services. The bill establishes the title "licensed tree expert," instead of the title of "certified tree expert," as used in the current law, and creates a new license for "tree care operators," which encompasses tree

pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

The bill also stipulates that every business engaged in providing tree expert or tree care operator services shall register with the board and provide instruction and training for employees on use, inspection and maintenance of tools, and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Further, it exempts from its provisions any public utility employee and any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice.

Last, the bill establishes a nine-member New Jersey Board of Tree Experts within the DEP, replacing the current three-member board. The board and the DEP are charged with administering the licensing program and are authorized to establish license fees to cover all administrative expenses incurred in the discharge of their official duties.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The DEP's estimates of revenues and costs generated under the bill are listed on the preceding page. These estimates are based on the salary costs of three new forester positions plus related non-salary expenses. One of these positions is not expected to begin until the second year of the program (as reflected by the lower cost estimate for Year 1).

The anticipated revenues are calculated by multiplying the projected license and registration fee rates, at \$200 per business and \$50 per individual, and the testing fee, at \$40 per individual, by the number of potential fee payers: 1,000 individual licensees in Year 1 followed by 1,500 licensees in both Years 2 and 3; 150 individuals tested in Year 1 followed by 200 tested in both Years 2 and 3; and 800 business registrations in Year 1 followed by 1,000 registrations in both Years 2 and 3.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services concurs with the Executive estimate and notes that any program operating deficits could require the transfer or appropriation of available funds within the department or from the General Fund.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Richard M. Handelman  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

# SENATE, No. 2503

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 26, 2009

**Sponsored by:**

**Senator ROBERT M. GORDON**

**District 38 (Bergen)**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Co-Sponsored by:**

**Senators Vitale, Sarlo, Sweeney, Cunningham and Scutari**

**SYNOPSIS**

"Tree Experts and Tree Care Operators Licensing Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/15/2009)**

1 AN ACT concerning the licensure of tree experts and tree care  
2 operators and the registration of certain employers,  
3 supplementing Title 45 of the Revised Statutes, and repealing  
4 P.L.1940, c.100 and sections 7 and 8 of P.L.1996, c.20.

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

8  
9 1. This act shall be known and may be cited as the “Tree  
10 Experts and Tree Care Operators Licensing Act.”

11  
12 2. For the purposes of this act:

13 “Board” means the New Jersey Board of Tree Experts  
14 established pursuant to section 3 of this act.

15 “Licensed tree care operator” means a person licensed to provide  
16 tree care operator services in the State pursuant to subsection b. of  
17 section 7 of this act.

18 “Licensed tree expert” means a person licensed to provide tree  
19 expert services in this State pursuant to subsection a. of section 7 of  
20 this act.

21 “Tree care operator services” means and includes tree pruning,  
22 repairing, brush cutting or removal, tree removal, and stump  
23 grinding or removal.

24 “Tree care services” means tree care operator services and tree  
25 expert services as established by this act.

26 “Tree expert services” means and includes tree pruning,  
27 repairing, brush cutting or removal, tree removal, stump grinding or  
28 removal, tree establishment, fertilization, cabling and bracing,  
29 lightning protection, consulting, diagnosis, and treatment of tree  
30 problems or diseases, tree management during site planning and  
31 development, tree assessment and risk management, and application  
32 of pesticides or any other form of tree maintenance.

33  
34 3. There is established in the Department of Environmental  
35 Protection the New Jersey Board of Tree Experts. The board shall  
36 consist of nine members, including the Commissioner of the  
37 Department of Environmental Protection or the commissioner’s  
38 designee, who shall serve ex officio, and eight members, appointed  
39 by the Governor with the advise and consent of the Senate as  
40 follows: five shall be licensed tree experts, two shall be licensed  
41 tree care operators, and one shall possess knowledge of  
42 arboriculture or forestry, including urban forestry. However, of the  
43 public members first appointed, three of the five licensed tree  
44 expert memberships shall be appointed from the members of the  
45 board of tree experts established by P.L.1940, c.100 (C.45:15-1 et  
46 seq.), participating on the board on the date of enactment of this act,  
47 and the remaining tree experts first appointed shall be certified, on  
48 or before the date of enactment of this act, pursuant to the

1 provisions of P.L.1940, c.100 (C. 45:15C-1 et seq.). The initial  
2 members of the board, including the tree care operators first  
3 appointed, need not be licensed until 180 days following the  
4 promulgation of initial regulations by the board to carry out the  
5 provisions of this act. Thereafter, the members of the board  
6 subsequently appointed shall be licensed before appointment. The  
7 three members of the board of tree experts shall be appointed for a  
8 term of three years, and one of the initial tree care operators shall be  
9 appointed for a term of three years; the remaining two initial tree  
10 experts and the remaining initial tree care operator shall be  
11 appointed for a term of two years; and the initial member  
12 possessing knowledge of arboriculture or forestry shall be  
13 appointed for a term of one year. Thereafter, all members  
14 appointed shall serve for terms of three years or until their  
15 successors are appointed and qualified. Vacancies shall be filled  
16 for the unexpired terms only.

17

18 4. The board shall annually elect from among its members a  
19 chairman and a vice-chairman. The board shall meet at least four  
20 times per year and may hold additional meetings as necessary to  
21 discharge its duties. A majority of the total authorized membership  
22 of the board may exercise any of the powers of the board at any  
23 meeting. The members of the board shall serve without  
24 compensation, but the board may, within the limits of funds  
25 appropriated or otherwise made available to it, reimburse members  
26 for actual expenses necessarily incurred in the discharge of their  
27 official duties, according to rules and regulations promulgated by  
28 the Commissioner of the Department of Environmental Protection.

29

30 5. The board shall:

31 a. Review the qualifications of an applicant for licensure under  
32 the act;

33 b. Establish standards for examinations for licensure;

34 c. Issue and renew licenses and assess fees therefor;

35 d. Establish standards by regulation, which shall include, but  
36 not be limited to, the appropriate standards of the American  
37 National Standards Institute (ANSI), and any related standards and  
38 best management practices;

39 e. Suspend or revoke licenses or registrations for violations of  
40 the act;

41 f. Maintain a registry of licensees;

42 g. Adopt a canon of professional ethics;

43 h. Adopt such regulations as may be necessary to effectuate the  
44 purposes of the act;

45 i. Establish fees by regulation for examinations, applications  
46 for licensure, and license renewals. The fees shall be sufficient to  
47 defray expenses incurred by the board in the performance of its  
48 duties under the act;

1 j. Conduct such worksite inspections as may be necessary to  
2 enforce the provisions of this act; and

3 k. Maintain a registry of businesses engaged in tree care  
4 services, and charge a fee therefor.

5  
6 6. The board shall develop an examination or designate  
7 examinations to evaluate the knowledge, ability, and fitness of  
8 applicants to perform as tree experts or tree care operators,  
9 respectively, and shall administer the examinations at least semi-  
10 annually at times and places to be determined by the board. The  
11 board shall provide for adequate written notice of the time and  
12 place of the examinations. An applicant who fails an examination  
13 may not retake the examination earlier than three months following  
14 the initial examination. There shall be no limitation on the number  
15 of times an examination may be taken. All licenses shall be issued  
16 on a biennial basis. A person may seek renewal of a license upon  
17 submission of a renewal application and the payment of a renewal  
18 fee established by the board. If a license expires without being  
19 renewed, the license may be renewed within one year of expiration  
20 upon the payment of a prorated fee. The determination of the board  
21 as to an applicant's qualifications for any examination shall  
22 constitute final agency action.

23  
24 7. a. No person shall present himself to the public as a licensed  
25 tree expert or use the designation "L.T.E.," without licensure by the  
26 board. A person shall not be eligible for licensure pursuant to this  
27 subsection until the final promulgation of initial regulations by the  
28 board to carry out the provisions of this act. A candidate for  
29 licensure shall:

30 (1) be at least 18 years of age;

31 (2) be of good moral character;

32 (3) (a) be a graduate from a four year college with a degree in  
33 forestry, arboriculture, ornamental horticulture, natural resources,  
34 or any other curriculum approved by the board; or

35 (b) have completed two years of college and passed courses  
36 approved by the board, and have been continuously employed in the  
37 practice of arboriculture for a period of at least three years  
38 preceding the date of his application for licensure; or

39 (c) be continuously employed in the practice of arboriculture for  
40 at least five years immediately preceding the date of application for  
41 licensure; and

42 (4) except as provided in subsection c. of this section, have  
43 passed an examination established or designated by the board.

44 b. No person shall present himself to the public as a licensed  
45 tree care operator or use the designation "L.T.C.O.," without  
46 licensure by the board. A person shall not be eligible for licensure  
47 pursuant to this subsection until the final promulgation of initial

1 regulations by the board to carry out the provisions of this act. A  
2 candidate for licensure shall:

- 3 (1) be at least 18 years of age;
- 4 (2) be of good moral character;
- 5 (3) (a) be a graduate from a four year college with a degree in  
6 arboriculture or an equivalent major field of study, and have been  
7 continuously employed in the practice of arboriculture for a period  
8 of at least one year preceding the date of his application for  
9 licensure; or
- 10 (b) be a graduate from a two year college with a degree in  
11 arboriculture or an equivalent major field of study, and have been  
12 continuously employed in the practice of arboriculture for a period  
13 of at least two years preceding the date of his application for  
14 licensure; or
- 15 (c) be continuously employed in the practice of arboriculture for  
16 at least three years preceding the date of his application for  
17 licensure; and
- 18 (4) except as provided in subsection c. of this section, have  
19 passed an examination established by the board.

20 c. Notwithstanding the provisions of subsections a. and b., for  
21 360 days after the date regulations are promulgated pursuant to the  
22 provisions of this act:

- 23 (1) any person of good moral character who has received  
24 certification as a tree expert pursuant to P.L.1940, c.100 (C.  
25 45:15C-1 et seq.) before the date of its repeal may, if in good  
26 standing with the board, acquire a license as a tree expert without  
27 sitting for an examination pursuant to subsection a. of this section  
28 pursuant to regulations established by the board; and
- 29 (2) any person of good moral character who has documented to  
30 the satisfaction of the board that he has been engaged in the practice  
31 of arboriculture for seven years preceding the effective date of this  
32 act may acquire a license as a tree care operator without sitting for  
33 an examination pursuant to subsection b. of this section, pursuant to  
34 regulations established by the board.

35 Licenses issued pursuant to this subsection shall be renewed  
36 biennially.

37 d. Persons licensed under this act shall receive a certificate  
38 evidencing their licensure.

39 e. Any person licensed as a tree care operator may  
40 subsequently apply for licensure as a tree expert upon meeting the  
41 qualifications for licensure.

42

43 8. a. Applications for licenses as a tree expert or a tree care  
44 operator shall be on forms prescribed and furnished by the board  
45 and shall contain statements under oath showing the applicant's  
46 education or other qualification for licensure. The application shall  
47 be accompanied by an application fee as established by the board by

1 regulation. No license shall be issued in the name of a corporation,  
2 firm, partnership, or other form of business organization.

3 b. The board shall maintain a record of all individual applicants  
4 for licensure and all licensees, including the persons' name, age,  
5 education, and other qualifications, the person's place of residence,  
6 the location in which the person is employed, and a record of the  
7 person's fulfillment of any continuing education requirements  
8 established by this act.

9 c. The board may, in its discretion, grant a tree expert license  
10 or a tree care operator license to any person who is not a resident of  
11 this State and who is the lawful holder of a substantially equivalent  
12 license or certification issued by another jurisdiction, as determined  
13 by the board.

14

15 9. a. Every licensed tree expert and licensed tree care operator  
16 shall complete, as a condition for biennial license renewal, no less  
17 than 32 credits of continuing education in courses of study  
18 approved by the board. Each hour of instruction shall be equivalent  
19 to one credit. The board may waive requirements for continuing  
20 education on an individual basis for reasons of hardship such as  
21 illness or disability or other good cause. Evidence of the fulfillment  
22 of this requirement shall be submitted to the board in a form and  
23 manner established by the board.

24 b. The board shall review the content of courses of study  
25 offered by colleges, universities, and other institutions or  
26 organizations for the awarding of degrees or credits in subjects  
27 related to arboriculture and make the list available to the public.  
28 The board shall establish and maintain minimum requirements for  
29 courses to meet continuing education requirements by establishing a  
30 list of approved subjects and courses of study.

31

32 10. In rendering professional services, a licensed tree expert or  
33 licensed tree care operator shall comply in all respects with the  
34 applicable laws and regulations pertaining to tree expert or tree care  
35 operator services and shall have the duty to make every reasonable  
36 effort to protect the safety, health, property, and welfare of the  
37 public. This shall include ensuring the safe operation of all  
38 equipment used in the performance of tree expert or tree care  
39 operator services, under guidelines established by the Department  
40 of Environmental Protection or by the board.

41

42 11. The board may refuse to issue or renew or may suspend or  
43 revoke a license or may refuse to admit a person to an examination  
44 for licensure, after notice and hearing, upon a finding that an  
45 applicant or licensee:

46 a. Has obtained a license or authorization to sit for an  
47 examination through fraud, deception, or misrepresentation;



- 1       b. Has conducted work, or allowed work to be conducted under
- 2 his supervision, in a manner not in compliance with standards
- 3 approved by the board;
- 4       c. Has engaged in the use of dishonesty, fraud, deception,
- 5 misrepresentation, false promise, or false pretense in the course of
- 6 his business;
- 7       d. Has engaged in gross negligence or gross incompetence;
- 8       e. Has engaged in repeated acts of negligence or incompetence;
- 9       f. Has engaged in occupational misconduct, as determined by
- 10 the board;
- 11       g. Has been convicted of any crime involving moral turpitude,
- 12 any crime relating adversely to the activities regulated by the board,
- 13 or any crime of the first, second, third, or fourth degree;
- 14       h. Has had his authority to engage in the activities regulated by
- 15 the board revoked or suspended by any other state, agency, or
- 16 authority;
- 17       i. Has failed to comply with the provisions of this act or any
- 18 regulation promulgated pursuant thereto, including canons of ethics
- 19 established by the board;
- 20       j. Is incapable, for medical or any other good cause, of
- 21 discharging the functions of a licensee in a manner consistent with
- 22 the health, safety, and welfare of the public;
- 23       k. Has engaged in any form of false or misleading advertising
- 24 or promotional activities, including, but not limited to, holding
- 25 himself out to be a licensed tree expert, an arborist, licensed tree
- 26 care operator, a tree surgeon, a tree care business, or any similar
- 27 designation, or using the abbreviation "L.T.E." or "L.T.C.O."
- 28 without being licensed as a tree expert or a tree care operator as
- 29 provided for in this act; or
- 30       l. Has failed to maintain records required by the board.
- 31
- 32       12. Every business engaged in providing tree expert or tree care
- 33 operator services shall register biennially with the board as a
- 34 condition of doing business in this State and shall provide the
- 35 following information:
- 36       a. The name and residence of the owner or owners of the tree
- 37 care business;
- 38       b. The principal address of the tree care business, and any
- 39 branch office or subsidiary of the business;
- 40       c. The names and addresses of every licensed tree expert or
- 41 licensed tree care operator employed by the business and the
- 42 location of each such licensee, if at a branch office other than the
- 43 business' main office;
- 44       d. Proof of general liability insurance or a letter of credit of a
- 45 type and amount required by the board by regulation;
- 46       e. Proof of workers' compensation insurance coverage required
- 47 pursuant to chapter 15 of Title 34 of the Revised Statutes;

1 f. Proof that at least one employee of the tree care business,  
2 located at the principal office of the tree care business shall be  
3 licensed either as a tree expert or tree care operator, and at least one  
4 employee of the tree care business, located at each branch office of  
5 the tree care business shall be licensed either as a tree expert or tree  
6 care operator; and

7 g. Any other information required by the board.

8  
9 13. Every tree care business shall provide instruction and  
10 training for its employees in the proper use, inspection and  
11 maintenance of tools and equipment and shall require that safe  
12 working practices are observed in accordance with the appropriate  
13 standards of the American National Standards Institute (ANSI), as  
14 well as any additional standards designated by the board by  
15 regulation. Every tree care business shall submit documentation of  
16 its training program for employees to the board annually, which  
17 shall include a model tree safety program checklist, proof of general  
18 liability insurance coverage or a letter of credit in an amount  
19 established by the board, and proof of workers' compensation  
20 insurance.

21  
22 14. The board may revoke or suspend a registration of any tree  
23 care business, after notice and hearing, that the business:

24 a. Has failed to demonstrate that the employer, or at least one  
25 employee in each principal office and branch location who is  
26 responsible for the supervision of workers in the performance of  
27 tree expert or tree care operator services, is in possession of a tree  
28 expert license or a tree care operator license;

29 b. Has failed to ensure the safe operation of all equipment used  
30 in the performance of tree expert or tree care operator services;

31 c. Has allowed work to be conducted in a manner not in  
32 compliance with standards approved by the board;

33 d. Has failed to provide instruction and training for its  
34 employees, as required by this act;

35 e. Has engaged in the use of dishonesty, fraud, deception,  
36 misrepresentation, false promise, or false pretense in the course of  
37 his business;

38 f. Has been found guilty of gross negligence or incompetence;

39 g. Has had the authority to engage in tree expert or tree care  
40 operator services revoked or suspended by any other state, agency,  
41 or authority;

42 h. Has failed to comply with the provisions of this act or any  
43 regulation promulgated pursuant thereto;

44 i. Has engaged in any form of false or misleading advertising  
45 or promotional activities; or

46 j. Has failed to maintain records required by the board.

1       15. In the performance of tree expert or tree care operator  
2 services, a licensed tree expert or licensed tree care operator and  
3 every tree care business shall cooperate fully with the Department  
4 of Environmental Protection and the board in an investigation or  
5 adjudication of an alleged violation of this law or any regulations  
6 promulgated pursuant thereto, and upon request, shall provide  
7 copies of any documents that shall be requested in connection  
8 therewith.

9  
10       16. Whenever it shall appear to the board or the Department of  
11 Environmental Protection that a person has engaged in, or is  
12 engaging in, any unlawful activity under the provisions of this act,  
13 the person may be required to file, on a form prescribed by  
14 regulation, a statement in writing under oath as to the facts and  
15 circumstances concerning the rendering of any service or other  
16 violation of this act. The board or the department may examine any  
17 person in connection with any act or practice subject to the act,  
18 inspect any premises upon which any violation is alleged to have  
19 taken place or premises that constitute the licensee's place of  
20 business, and examine any record, book, document, account or  
21 paper maintained by or for any licensee in the conduct of his  
22 business.

23  
24       17. Suspension or revocation of a license by the board shall take  
25 place only following notice and a hearing, sent to the licensee at  
26 least 20 days prior to the hearing. No license shall be revoked or  
27 suspended until the conclusion of any hearing. The board shall  
28 render its judgment no later than 20 days following the conclusion  
29 of the hearing.

30  
31       18. In addition to suspension or revocation of a license, the  
32 board may levy a fine, not to exceed \$1,000 for a first violation and  
33 not to exceed \$2,500 for a second or subsequent violation of this  
34 act. If the violation is of a continuing nature, each day during  
35 which it continues shall constitute an additional, separate, and  
36 distinct offense. The civil penalty shall be issued for and recovered  
37 by and in the name of the board, and shall be collected by summary  
38 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
39 P.L.1999, c.274 (C.2A:58:10 et seq.), including reimbursement for  
40 the cost of investigation.

41  
42       19. Whenever it shall appear to the board or the Department of  
43 Environmental Protection that a violation of this act has occurred, is  
44 occurring, or will occur, the Attorney General, in addition to any  
45 other proceeding authorized by law, may seek and obtain in a  
46 summary proceeding in the Superior Court an injunction prohibiting  
47 the act or practice. The court may assess a civil penalty in

1 accordance with the provisions of this act, but the court shall not  
2 suspend or revoke any license issued by the board.

3

4 20. Any person aggrieved by an order or finding by the board or  
5 the commissioner may appeal the order or finding to the Superior  
6 Court.

7

8 21. The provisions of this act shall not apply to:

9 a. Any public utility or any employee of a public utility while  
10 engaged in the actual performance of his duties as an employee;

11 b. Any employer under contract with a public utility who is  
12 engaged in tree trimming or any other utility vegetation  
13 management practice for purpose of line clearance, or any employee  
14 of the employer while engaged in the actual performance of duties  
15 in regard to tree trimming or other utility vegetation management  
16 practice or for the installation of underground facilities or  
17 associated site construction;

18 c. Any forestry activities that are conducted under the forest  
19 management and stewardship programs approved by the State  
20 Forester, provided that tree climbing is not performed, nor are aerial  
21 lifts, cranes, or rope and rigging operations used;

22 d. Landscape construction activities, including those performed  
23 by, or under the direction of, a landscape architect, or ground based  
24 landscape maintenance activities such as pruning, fertilization,  
25 insect and disease control, planting, transplanting and all other  
26 forms of ground based landscape maintenance, in compliance with  
27 the sections of the American National Standards Institute practice  
28 standards set forth by the board by regulation, with applicable  
29 safety standards and regulations promulgated by the federal  
30 Occupational Safety and Health Administration, and with any  
31 pesticide regulations promulgated by the Department of  
32 Environmental Protection. For the purposes of this subsection,  
33 ground based landscape maintenance means operations that do not  
34 involve climbing, the use of aerial lifts, cranes, rope and rigging  
35 operations, or the removal of trees over 6 inch D.B.H;

36 e. Any person or employer that does not offer tree care services  
37 for hire;

38 f. Any trees being removed pursuant to an approved site plan  
39 or subdivision approval, provided that the tree removal activities are  
40 performed in compliance with the sections of the American  
41 National Standards Institute practice standards set forth by the  
42 board by regulation, with applicable safety standards and  
43 regulations promulgated by the federal Occupational Safety and  
44 Health Administration, and with applicable safety standards of the  
45 American National Standards Institute as designated by the board  
46 by regulation; and

47 g. Any employee of a municipality or county while engaged in  
48 the actual performance of his duties as an employee.



1 shall: have graduated from a four-year college with a degree in  
2 arboriculture or an equivalent major field of study and have been  
3 continuously employed in the field of arboriculture for a period of  
4 at least one year preceding the date of his application; or have  
5 graduated from a two-year college with a degree in arboriculture or  
6 an equivalent major field of study and have been continuously  
7 employed in the practice of arboriculture for a period of at least two  
8 years preceding the date of application; or have been continuously  
9 employed in the field of arboriculture for at least three years  
10 preceding the date of application; and pass an examination  
11 established by the board.

12 In addition, the bill requires licensed tree experts and licensed  
13 tree care operators to complete continuing education requirements  
14 as a condition of biennial license renewal. The educational course  
15 of study shall be approved by the board and shall include 32 hours  
16 of continuing education, with each hour of instruction equivalent to  
17 one credit. Waivers of these continuing education requirements  
18 may be granted by the board on an individual basis due to illness or  
19 disability, or other good cause.

20 This bill also stipulates that every business engaged in providing  
21 tree expert or tree care operator services shall register with the  
22 board. The bill requires that every tree care business shall provide  
23 instruction and training for employees on use, inspection and  
24 maintenance of tools, and shall require that safe working practices  
25 are observed in accordance with the appropriate standards of the  
26 American National Standards Institute (ANSI), as well as any  
27 additional standards designated by the board by regulation. Every  
28 tree care business shall submit documentation of its training  
29 program for employees to the board annually, which shall include a  
30 model tree safety program checklist, proof of general liability  
31 insurance coverage or a letter of credit in an amount established by  
32 the board, and proof of workers' compensation insurance required  
33 pursuant to chapter 15 of Title 34 of the Revised Statutes.

34 The bill exempts from its provisions: any public utility or any  
35 employee of a public utility while in the actual performance of his  
36 duties as an employee; any employer under contract with a public  
37 utility who is engaged in tree trimming or any other utility  
38 vegetation management practice for purpose of line clearance, or  
39 any employee of the employer while engaged in the actual  
40 performance of duties in regard to tree trimming or other utility  
41 vegetation management practice or for the installation of  
42 underground facilities or associated site construction; any forestry  
43 activities that are conducted under the forest management and  
44 stewardship programs approved by the State Forester, provided that  
45 tree climbing is not performed, nor are aerial lifts, cranes, or rope  
46 and rigging operations used; landscape construction activities; any  
47 person or employer that does not offer tree care services for hire;  
48 any trees being removed pursuant to an approved site plan or

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1 subdivision approval, provided that the tree removal activities are  
2 performed in compliance with the sections of the American  
3 National Standards Institute practice standards set forth by the  
4 board by regulation, with applicable safety standards and  
5 regulations promulgated by the federal Occupational Safety and  
6 Health Administration, and with applicable safety standards of the  
7 American National Standards Institute as designated by the board  
8 by regulation; and any employee of a municipality or county while  
9 engaged in the actual performance of his duties as an employee.

10 The board and the Department of Environmental Protection are  
11 charged with administering the bill and may impose various  
12 sanctions, including fines, suspension or revocation of licenses, and  
13 obtaining injunctive relief, for violations of the bill's provisions.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 2503

# STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Commerce Committee reports favorably Senate Bill No. 2503.

This bill, which shall be known and may be cited as the "Tree Experts and Tree Care Operators Licensing Act," repeals the "tree expert act," P.L.1940, c.100 (C.45:15C-1 et seq.), and provides an entirely new licensing scheme for persons providing tree care services. The bill establishes the title "licensed tree expert," instead of the title of "certified tree expert," as used in the current law, and creates a new license for "tree care operators." The bill establishes the New Jersey Board of Tree Experts within the Department of Environmental Protection with nine members. The current board is also within the Department of Environmental Protection with three members.

Tree expert services include tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance. By comparison, tree care operator services include tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

The bill provides that, to become a licensed tree expert, one must: graduate from a four-year college with a degree in forestry, arboriculture, ornamental horticulture, natural resources or any other curriculum approved by the board; or complete two years of college and pass courses approved by the board, and have been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of application for licensure; or be continuously employed in the practice of arboriculture for at least five years immediately preceding the date of application for licensure; and pass an examination established or designated by the board.

To be eligible for licensure as a tree care operator, an applicant shall: have graduated from a four-year college with a degree in arboriculture or an equivalent major field of study and have been continuously employed in the field of arboriculture for a period of at least one year preceding the date of his application; or have graduated from a two-year college with a degree in arboriculture or an equivalent



major field of study and have been continuously employed in the practice of arboriculture for a period of at least two years preceding the date of application; or have been continuously employed in the field of arboriculture for at least three years preceding the date of application; and pass an examination established by the board.

In addition, the bill requires licensed tree experts and licensed tree care operators to complete continuing education requirements as a condition of biennial license renewal. The educational course of study shall be approved by the board and shall include no less than 32 hours of continuing education, with each hour of instruction equivalent to one credit. Waivers of these continuing education requirements may be granted by the board on an individual basis due to illness or disability, or other good cause.

This bill also stipulates that every business engaged in providing tree expert or tree care operator services shall register with the board. The bill requires that every tree care business shall provide instruction and training for employees on use, inspection and maintenance of tools, and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Every tree care business shall submit documentation of its training program for employees to the board annually, which shall include a model tree safety program checklist, proof of general liability insurance coverage or a letter of credit in an amount established by the board, and proof of workers' compensation insurance required pursuant to chapter 15 of Title 34 of the Revised Statutes.

The bill exempts from its provisions: any public utility or any employee of a public utility while in the actual performance of his duties as an employee; any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction; any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used; landscape construction activities; any person or employer that does not offer tree care services for hire; any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the ANSI practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with applicable ANSI safety standards as designated by the board by regulation; and

any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

The board and the Department of Environmental Protection are charged with administering the bill and may impose various sanctions, including fines, suspension or revocation of licenses, and obtaining injunctive relief, for violations of the bill's provisions.

This bill is identical to Assembly Bill No. 2872 (2R), which is also reported by the committee today.

**FISCAL NOTE**  
**SENATE, No. 2503**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: DECEMBER 9, 2009

**SUMMARY**

**Synopsis:** "Tree Experts and Tree Care Operators Licensing Act."

**Type of Impact:** Offsetting increases in revenues and expenditures from the General Fund.

**Agencies Affected:** Department of Environmental Protection and the New Jersey Board of Tree Experts.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$230,100	\$278,000	\$288,900
<b>State Revenue</b>	\$216,000	\$283,000	\$283,000

- The Office of Legislative Services **concurs** with the Executive estimates provided for the Fiscal Note to Assembly Bill No. 2872 (2R) of 2008, which is identical to the subject bill.
- The bill repeals P.L.1940, c.100 (the "tree expert act"), establishes a nine-member New Jersey Board of Tree Experts to replace the current three-member board, and provides a new licensing system and eligibility criteria for persons providing tree care services.
- The bill establishes the title "licensed tree expert," replacing the existing title "certified tree expert," and creates a new license for "tree care operators."
- The bill directs the board and the Department of Environmental Protection (DEP) to administer the licensing program and authorizes the establishment of license fees to cover all program expenses.

**BILL DESCRIPTION**

Senate Bill No. 2503 of 2009 repeals P.L.1940, c.100 and provides an entirely new licensing scheme and eligibility criteria for persons providing tree care services. The bill establishes the title "licensed tree expert," instead of the title of "certified tree expert," as used in the current law, and creates a new license for "tree care operators," which encompasses tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

The bill also stipulates that every business engaged in providing tree expert or tree care operator services shall register with the board and provide instruction and training for employees on use, inspection and maintenance of tools, and shall require that safe working practices are observed in accordance with the appropriate standards of the American National Standards Institute (ANSI), as well as any additional standards designated by the board by regulation. Further, it exempts from its provisions any public utility employee, any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice, and any municipal or county employee engaged in activities subject to the bill.

Last, the bill establishes a nine-member New Jersey Board of Tree Experts within the DEP, replacing the current three-member board. The board and the DEP are charged with administering the licensing program and are authorized to establish license fees to cover all administrative expenses incurred in the discharge of their official duties.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

In a Fiscal Note prepared for the subject bill's Assembly counterpart, Assembly Bill No. 2872 (2R) of 2008, the DEP provided estimates of revenues and costs that could be generated under the amended bill. These figures, as listed on the preceding page, were based on the salary costs of three new forester positions plus related non-salary expenses. One of these positions was not expected to begin until the second year of the program (as reflected by the lower cost estimate for Year 1).

The anticipated revenues were calculated by multiplying the projected license and registration fee rates, at \$200 per business and \$50 per individual, and the testing fee, at \$40 per individual, by the number of potential fee payers: 1,000 individual licensees in Year 1 followed by 1,500 licensees in both Years 2 and 3; 150 individuals tested in Year 1 followed by 200 tested in both Years 2 and 3; and 800 business registrations in Year 1 followed by 1,000 registrations in both Years 2 and 3.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services concurred with the Executive branch estimates provided for the Assembly bill and believes these estimates still apply to the subject bill.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Richard M. Handelman  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-6 et seq.).