

45:5AA-1 to 45:5AA-11

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 45:5AA-1 to 45:5AA-11

(Landscape
irrigation
contractors--licensing
board in DEP)

LAWS OF: 1991

CHAPTER: 27

Bill No: A1846

Sponsor(s): Doria

Date Introduced: Pre-filed

Committee: Assembly: Commerce

Senate: Labor, Industry & Professions

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: March 8, 1990

Senate: December 13, 1990

Date of Approval: February 19, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

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[FIRST REPRINT]
ASSEMBLY, No. 1846

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblyman DORIA

1 AN ACT regulating landscape irrigation contractors ¹[and
2 supplementing Title 45 of the Revised Statutes]¹.

3

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

6 1. This act shall be known and may be cited as the
7 "Landscape Irrigation Contractor Certification Act of 1990."

8 2. As used in this act:

9 a. "Board" means the Landscape Irrigation Contractors
10 Examining Board established pursuant to section 5 of this act.

11 b. "Department" means the Department of Environmental
12 Protection.

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

20 d. "Landscape irrigation contractor" means a person who is
21 certified to do landscape irrigation contracting.

22 e. "Landscape irrigation contractor certificate" or
23 "certificate" means the certificate issued by the board pursuant
24 to the provisions of this act.

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

34 3. ¹a.¹ No person shall engage in the business of landscape
35 irrigation contracting without securing from the board a
36 landscape irrigation contractor certificate in accordance with
37 the provisions of this act; except that officers, employees, and
38 duly authorized representatives of the United States, the State,
39 or any political subdivision thereof performing work on 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:

¹ Senate SLI committee amendments adopted September 24, 1990.

1 property of the ¹[political] public¹ entity; vendors of landscape
2 irrigation components, materials, or equipment who perform
3 only such functions as delivery, rendering of advice or assistance
4 in the installation or normal warranty service or exchange of
5 defective or damaged goods; contractors engaged in the design,
6 fabrication, installation or construction of irrigation apparatus,
7 or irrigation equipment of any type which is to be used solely for
8 agricultural purposes in the production of harvestable and
9 saleable vegetative or animal products; ¹plumbing contractors
10 as defined by section 2 of P.L.1968, c.362 (C.45:14C-2);¹ and
11 persons engaged in landscape irrigation contracting solely as an
12 employee of a landscape irrigation contractor, are exempt from
13 the requirement of a certificate imposed by this act.

14 ¹b. If a landscape irrigation system is connected to a potable
15 water supply, the landscape irrigation contractor's connection is
16 to begin at the downstream side of a properly installed backflow
17 prevention device as required by the Plumbing Subcode of the
18 Uniform Construction Code adopted pursuant to section 5 of the
19 "State Uniform Construction Code Act," P.L.1975, c.217
20 (C.52:27D-123).

21 c.¹ Nothing in this act shall be construed to prevent
22 individuals licensed or certified in this State under any other law
23 from engaging in the profession for which they are licensed or
24 certified.

25 4. A person seeking certification as a landscape irrigation
26 contractor shall apply therefor on forms prescribed and provided
27 by the board, and pay the application fee established by the
28 board. In addition to any other information or documents that
29 may be required by the board, each applicant shall submit
30 satisfactory evidence that the applicant is of good moral
31 character, is at least 18 years of age, and has a minimum of
32 three years experience in the field of landscape irrigation.

33 5. a. There is established in the Department of
34 Environmental Protection the Landscape Irrigation Contractors
35 Examining Board, which shall consist of six members, one of
36 whom shall be the Commissioner of the Department of
37 Environmental Protection, or the commissioner's designated
38 representative, who shall serve ex officio, four of whom shall be
39 landscape irrigation contractors and residents of the State, and
40 one of whom shall be ¹a¹ licensed professional engineer,
41 appointed by the Governor with the advice and consent of the
42 Senate, for terms of three years. Of the public members first
43 appointed by the Governor, who shall not be required to be
44 certified pursuant to section 7 of this act, two shall be
45 appointed for terms of three years, two shall be appointed for a
46 term of two years, and one shall be appointed for a term of one
47 year. Each of these members shall hold office for the term of
48 the appointment and until a successor is appointed and
49 qualified. A member is eligible for reappointment to one

- 1 additional term. Any vacancy in the membership occurring
2 other than by expiration of a term shall be filled in the same
3 manner as the original appointment, but for the expired term
4 only.
- 5 b. The members of the board shall elect from among their
6 number a chairman, who shall schedule, convene, and chair
7 board meetings, and a vice-chairman who shall act as chairman
8 in the chairman's absence.
- 9 c. The powers of the board are vested in the members thereof
10 in office, and a majority of the total authorized membership of
11 the board is required to exercise its powers at any meeting
12 thereof.
- 13 d. The members of the board shall serve without
14 compensation, but the board may, within the limits of funds
15 appropriated or otherwise made available to it, reimburse
16 members for actual expenses necessarily incurred in the
17 discharge of their official duties.
- 18 e. The board shall meet twice annually, and at such other
19 times as may be necessary, at a place provided by the
20 department.
- 21 6. The board shall:
- 22 a. Review the qualifications of an applicant for certification
23 as a landscape irrigation contractor;
- 24 b. Insure the proper conduct and standards of examinations
25 for the certification of landscape irrigation contractors;
- 26 c. Issue and renew certificates pursuant to this act, as
27 appropriate;
- 28 d. Refuse to issue ¹or renew¹ or shall suspend or revoke a
29 certificate issued under this act pursuant to section 8 of this act;
- 30 e. Maintain a registry of landscape irrigation contractor
31 certificates which shall record the name ¹[,] and¹ address of the
32 contractor, the date the certificate was issued, and the number
33 of the certificate;
- 34 f. Adopt, pursuant to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to
36 carry out the provisions of this act; and
- 37 g. Adopt, pursuant to the "Administrative Procedure Act,"
38 fees for examinations, application and renewal of a certificate.
39 These fees shall be prescribed or changed to the extent
40 necessary to defray the expenses incurred by the board in the
41 performance of its duties but shall not be fixed at a level that
42 will raise amounts in excess of the amount estimated to be so
43 required.
- 44 7. a. The board shall develop an examination to evaluate the
45 knowledge, ability, and fitness of applicants to perform as
46 landscape irrigation contractors and for the certification
47 thereof and shall administer these examinations at least
48 semi-annually at times and places to be determined by the
49 board. The board shall provide adequate written notice of the

1 time and place of the examination. An applicant who fails an
2 examination may not retake the examination sooner than six
3 months after the initial examination. The board shall issue a
4 certificate to an applicant who successfully passes the
5 examination and otherwise meets the standards and
6 qualifications established by the board.

7 b. Each initial certificate issued pursuant to this act shall
8 expire on January 31 of the second calendar year following
9 issuance. All certificates issued thereafter shall remain valid
10 for a period of two years and shall expire on January 31 of the
11 second calendar year. A new certificate issued any time after
12 the regular January 31 date of issuance shall remain valid until
13 the regular January 31 date of expiration.

14 c. A person may seek renewal of a certificate upon
15 submission of a renewal application and the renewal fee
16 established by the board.

17 d. If a renewal application and fee are not received by the
18 board, the certificate shall expire, except that a person may
19 renew a certificate within two years of its expiration upon
20 payment of a prorated fee. A new certificate, issued pursuant
21 to the provisions of this act, shall be required of a person who
22 fails to renew a certificate within two years of its expiration.

23 8. The board may refuse to admit a person to an examination
24 or may refuse to issue ¹or renew¹ or may suspend or revoke any
25 certificate issued by the board pursuant to this act upon proof
26 that the applicant or holder of the certificate:

27 a. Has obtained a certificate or authorization to sit for an
28 examination, as the case may be, through fraud, deception, or
29 misrepresentation;

30 b. Has engaged in the use or employment of dishonesty,
31 fraud, deception, misrepresentation, false promise or false
32 pretense;

33 c. Has engaged in gross negligence or gross incompetence;

34 d. Has engaged in repeated acts of negligence or
35 incompetence;

36 e. Has engaged in occupational misconduct as may be
37 determined by the board;

38 f. Has been convicted of any crime involving moral turpitude
39 or any crime relating adversely to the activity regulated by the
40 board. For the purpose of this subsection a plea of guilty, non
41 vult, nolo contendere or any other similar disposition of alleged
42 criminal activity shall be deemed a conviction;

43 g. Has had his authority to engage in the activity regulated
44 by the board revoked or suspended by any other state, agency or
45 authority for reasons consistent with this section;

46 h. Has violated or failed to comply with the provisions of this
47 act; or

48 i. Is incapable, for medical or any other good cause, of
49 discharging the functions of a certificate holder in a manner

1 consistent with the public's health, safety and welfare.

2 9. Any person violating any provision of this act shall be
3 liable to a civil penalty of not more than \$2,500 for the first
4 offense and not more than \$5,000 for the second and each
5 subsequent offense. In lieu of an administrative proceeding, the
6 board may bring an action for the collection or enforcement of
7 civil penalties for the violation of any provision of this act. The
8 action may be brought in summary manner pursuant to "the
9 penalty enforcement law," N.J.S.2A:58-1 et seq.

10 10. Whenever it shall appear to the board that a violation of
11 this act, including engaging in landscape irrigation contracting
12 without a certificate, has occurred, is occurring or will occur,
13 the board may seek and obtain in a summary proceeding in the
14 Superior Court an injunction prohibiting the act or practice. In
15 this proceeding the court may assess a civil penalty in
16 accordance with the provisions of this act and may enter those
17 orders necessary to prevent the performance of an unlawful
18 practice in the future.

19 11. The issuance of a certificate by the board shall authorize
20 any certificate holder to perform landscape irrigation
21 contracting in any municipality, county or other political
22 subdivision of the State, and no further examination or special
23 license ¹[may] shall¹ be required of the certificate holder,
24 except business licenses, permit fees, and such other standard
25 licenses and fees as may be required of any person doing
26 business within the jurisdiction of the political subdivision.

27 12. This act shall take effect immediately except that
28 section 3 shall remain inoperative for 180 days following
29 enactment.

30

31

32 REGULATED PROFESSIONS

33

34 Establishes a Landscape Irrigation Contractors Examining Board
35 in the Department of Environmental Protection to regulate
36 persons in the business of landscape irrigation contracting.

1 the board may seek and obtain in a summary proceeding in the
2 Superior Court an injunction prohibiting the act or practice. In
3 this proceeding the court may assess a civil penalty in
4 accordance with the provisions of this act and may enter those
5 orders necessary to prevent the performance of an unlawful
6 practice in the future.

7 11. The issuance of a certificate by the board shall authorize
8 any certificate holder to perform landscape irrigation
9 contracting in any municipality, county or other political
10 subdivision of the State, and no further examination or special
11 license may be required of the certificate holder, except
12 business licenses, permit fees, and such other standard licenses
13 and fees as may be required of any person doing business within
14 the jurisdiction of the political subdivision.

15 12. This act shall take effect immediately except that
16 section 3 shall remain inoperative for 180 days following
17 enactment.

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20 STATEMENT
21

22 As amended by committee, this bill establishes a Landscape
23 Irrigation Contractors Examining Board in the Department of
24 Environmental Protection to regulate those persons in the
25 business of landscape irrigation contracting. Landscape
26 irrigation contracting includes the construction, repair,
27 maintenance, improvement and alteration of any portion of a
28 landscape irrigation system.

29 The board would consist of six members: the Commissioner of
30 the Department of Environmental Protection or his designee,
31 four landscape irrigation contractors, and a licensed professional
32 engineer. The board would be responsible for reviewing the
33 qualifications of the applicants; conducting examinations;
34 issuing and renewing certificates to practice; suspending,
35 revoking and denying a certificate if appropriate; and
36 maintaining a registry of landscape irrigation contractors.

37 An applicant for a certificate to engage in the business of
38 landscape irrigation contracting would be required to:

- 39 a. Be of good moral character;
40 b. Be at least 18 years of age;
41 c. Have at least three years experience in the field of
42 landscape irrigation; and
43 d. Pass an examination prepared by the board which evaluates
44 the knowledge, ability and fitness of the applicant to perform as
45 a landscape irrigation contractor.

46 No person may engage in the business of landscape irrigation
47 contracting without securing from the board a landscape
48 irrigation contractor certificate, except public employees
49 performing work on the property of the public entity; vendors of

1 landscape irrigation equipment who perform only vendor
2 services; agricultural irrigation contractors; and employees of
3 landscape irrigation contractors.

4 Any person violating the provisions of the bill would be
5 subject to a penalty of not more than \$2,500.00 for a first
6 offense and not more than \$5,000.00 for a subsequent offense.
7 The board would also be able to seek injunctive relief prohibiting
8 a violation of the provisions of this bill.

9 The bill would exempt landscape irrigation contractors holding
10 a certificate pursuant to the provisions of this bill from any
11 other licensing requirements of municipalities, counties or other
12 political subdivisions of the State.

13

14

15 REGULATED PROFESSIONS

16

17 Establishes a Landscape Irrigation Contractors Examining Board
18 in the Department of Environmental Protection to regulate
19 persons in the business of landscape irrigation contracting.

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1846

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1990

The Assembly Commerce and Regulated Professions Committee reports favorably Assembly Bill No. 1846.

This bill establishes a Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection to regulate those persons in the business of landscape irrigation contracting. Landscape irrigation contracting includes the construction, repair, maintenance, improvement and alteration of any portion of a landscape irrigation system.

The board would consist of six members: the Commissioner of the Department of Environmental Protection or his designee, four landscape irrigation contractors, and a licensed professional engineer. The board would be responsible for reviewing the qualifications of the applicants; conducting examinations; issuing and renewing certificates to practice; suspending, revoking and denying a certificate if appropriate; and maintaining a registry of landscape irrigation contractors.

An applicant for a certificate to engage in the business of landscape irrigation contracting would be required to:

- a. Be of good moral character;
- b. Be at least 18 years of age;
- c. Have at least three years experience in the field of landscape irrigation; and
- d. Pass an examination prepared by the board which evaluates the knowledge, ability and fitness of the applicant to perform as a landscape irrigation contractor.

No person may engage in the business of landscape irrigation contracting without securing from the board a landscape irrigation contractor certificate, except public employees performing work on the property of the public entity; vendors of landscape irrigation equipment who perform only vendor services; agricultural irrigation contractors; and employees of landscape irrigation contractors.

Any person violating the provisions of the bill would be subject to a penalty of not more than \$2,500 for a first offense and not more than \$5,000 for a subsequent offense. The board would also be able to seek injunctive relief prohibiting a violation of the provisions of this bill.

The bill would exempt landscape irrigation contractors holding a certificate pursuant to the provisions of this bill from any other licensing requirements of municipalities, counties or other political subdivisions of the State.

The act shall take effect immediately except for section 3 of the bill which is to take effect 180 days following enactment. This will permit the board to be formed and begin its work immediately while providing currently practicing landscape irrigation contractors six months of additional time to obtain the required certification.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1846

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 1990

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Assembly Bill No. 1846.

This bill, designated the "Landscape Irrigation Contractor Certification Act of 1990," provides for the regulation of persons engaged in the business of landscape irrigation contracting in this State. The bill establishes a Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection to regulate those persons engaged in the business of landscape irrigation contracting. Landscape irrigation contracting is defined to include the construction, repair, maintenance, improvement and alteration of any portion of a landscape irrigation system, including required wiring within that system and connection to the required power supply and the installation and connection to a public or private water supply system.

The board would consist of six members: the Commissioner of the Department of Environmental Protection or his designee who is to serve in an ex-officio capacity, and five members appointed by the Governor with the advice and consent of the Senate, consisting of four landscape irrigation contractors and one licensed professional engineer.

The bill provides that no person is to engage in the business of landscape irrigation contracting without securing from the board a landscape irrigation contractor certificate, except public employees performing work on the property of the public entity; vendors of landscape irrigation equipment who perform only vendor services; agricultural irrigation contractors; plumbing contractors; and employees of landscape irrigation contractors.

In order to obtain a certificate to engage in the business of landscape irrigation contracting, an applicant would be required to: be of good moral character; be at least 18 years of age; have at least three years' experience in the field of landscape irrigation; and pass an examination prepared by and conducted under the authority of the board which evaluates the knowledge, ability and fitness of the applicant to perform as a landscape irrigation contractor. The bill provides a six-month period for compliance with the certification requirements for current landscape irrigation contractors. Certificates are to be renewable every two years.

In addition to the preparation and conduct of examinations, the board would be responsible for reviewing the qualifications of applicants; issuing and renewing certificates to practice;

suspending, revoking or denying a certificate if appropriate; and maintaining a registry of landscape irrigation contractors.

Any person violating the provisions of the bill would be subject to a penalty of not more than \$2,500 for a first offense and not more than \$5,000 for a subsequent offense. The board would also be able to seek injunctive relief prohibiting a violation of the provisions of this bill.

The bill would exempt landscape irrigation contractors holding a certificate pursuant to the provisions of this bill from any other licensing requirements of municipalities, counties or other political subdivisions of the State in which they are engaged in the business of landscape irrigation contracting, except business licenses, permit fees and other standard licenses required of any person doing business in that location.

The committee amended the bill to exempt plumbing contractors from the licensing requirements of the bill and provide that if a landscape irrigation system is connected to a potable water supply, the landscape irrigation contractor's connection is to begin at the downstream side of a properly installed backflow prevention device as required by the Plumbing Subcode of the Uniform Construction Code adopted pursuant to section 5 of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-123).