LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Regulatory Analysis

Notice of Intended Action to be published: 193D—Chapter 3
"Continuing Education"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 272C.2 and 544B.5

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 272C, and 544B; 2024 Iowa Acts, House File 2686; and Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024	6200 Park Avenue
2:30 to 3 p.m.	Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's (DIAL's) website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by DIAL no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed chapter sets forth continuing education, renewal and reinstatement requirements for licensed landscape architects to ensure continued competency. It includes definitions relating to continuing education, the required number of hours of continuing education, and the types of continuing education courses that are permissible.

In addition, this proposed rulemaking implements Iowa Code chapter 272C as amended by 2024 Iowa Acts, House File 2686. The chapter sets forth continuing education requirements for landscape architect licensees. The intended benefit of this chapter is to ensure that licensees maintain up-to-date standards and, as a result, provide high-quality services to Iowans. 2024 Iowa Acts, House File 2686, allows a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant landscape architect licensees the ability to carry over up to 12 hours of continuing education earned in excess of the 24 hours required every two years.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Licensees are responsible for the cost of continuing education. There are multiple private entities that provide continuing education courses to licensees. Some offer free continuing education, and some employers or design firms will offer free continuing education for their employees. The costs

vary, but an average cost, if incurred at all, is an estimated $25 per hour, bringing the total cost to $600 every two years for a licensee to meet these requirements. Notably, most health, safety, and welfare courses that are not state-specific can be used toward continuing education requirements.

- **Classes of persons that will benefit from the proposed rulemaking:**

The intended benefit of continuing education is to ensure ongoing competency for landscape architects to maintain up-to-date practice standards and provide quality services to Iowans, protecting public safety in the built environment.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Private industry, including educational institutions, professional associations, and businesses, offers continuing education courses, so the Landscape Architect Examining Board is not privy to an exact cost, but based on research, estimates it to be about $600 every two years for a registrant to meet these requirements. There are multiple entities that provide continuing education courses. The Board does not have data to correlate increased public safety to continuing education hour requirements. Currently, Iowa requires 24 hours of continuing education every two years.

- **Qualitative description of impact:**

In order to regulate professions as directed in statute, baseline standards for continuing education are critical to protect public safety. The cost of inaction would be an increase in the potential for injury to the public by a registrant who is not competent to perform the work of a landscape architect.

There has been a historical belief that continuing education has a public safety benefit because it ensures the licensed professionals are receiving education on up-to-date standards of practice and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced by the fact that most other boards require continuing education.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

A cost to the agency is the staff time needed to manage Board activities, which includes managing applications for initial registrations, renewals, and reinstatement. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund. Registration fees go to the fund to cover the operations of the regulated professional licensing boards.

- **Anticipated effect on state revenues:**

Costs associated with completing continuing education hours are paid to entities that provide continuing education opportunities, not the State. There is not an anticipated impact on this rule to State revenues. Staff salaries are covered by the Licensing and Regulation Fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Reducing or eliminating continuing education hours would reduce/eliminate the cost to the licensee to meet this requirement. Other design professionals also have continuing education requirements. The Board believes there could be an impact to public safety if continuing education requirements were eliminated. This could lead to more complaints, investigations, and ultimately, public discipline. There would be a loss of revenue for the private industry organizations that offer these continuing education programs.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Less restrictive continuing education alternatives would reduce the amount of continuing education required. Notably, data from surrounding states indicates that Iowa’s requirements are consistent with those surrounding states that require continuing education:

- Missouri: 24 hours biennially required, 16 in health, safety, and welfare
- Minnesota: 24 hours biennially required, 16 in health, safety, and welfare
- Nebraska: 24 hours biennially required, 16 in health, safety, and welfare
- Illinois: continuing education not required

The DIAL's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. This proposed chapter supports this effort.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No other methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board is in alignment with or requires fewer continuing education hours than neighboring states. Other design professionals also have required continuing education.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed chapter relates to public safety concerns that are present whether the business is a small business or a large organization. The chapter is meant to ensure public safety in terms of continuing education requirements. While some landscape architects likely are running a small business of their own, some work for large corporations and firms. To exempt a small business from adhering to this rule would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 193D—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
CONTINUING EDUCATION

193D—3.1(544B,17A) Definitions. As used in these rules, the following definitions will apply:

"Distance learning" means any education process based on the geographical separation of student and instructor. "Distance learning" includes computer-generated programs, webinars, and home-study/correspondence programs.

"Health, safety, and welfare subjects" means technical and professional subjects that the board deems appropriate to directly safeguard the public's health, safety and welfare. Such subjects include design, environmental systems, site design, land use analyses, landscape architecture programming, grading and drainage, storm water management, erosion control, site and soil analyses, accessibility,

building codes, review of state registration laws including the rules of professional conduct, evaluation and selection of products and materials, cost analysis, construction methods, contract documentation, construction contract administration, construction administration, construction-phase office procedures, project management, and the like.

"Hours of continuing education" means a contact hour spent in either structured educational activities or individually planned activities intended to increase the professional landscape architect's knowledge and competence in public protection subjects and related practice subjects. "Contact hour" is defined as the typical 50-minute classroom instructional session or its equivalent.

"Structured educational activities" means educational activities in which the teaching methodology consists primarily of systematic presentation of public protection subjects or related practice subjects by qualified individuals or organizations including monographs, courses of study taught in person or by correspondence, organized lectures, presentations or workshops, and other means through which identifiable technical and professional subjects are presented in a planned manner.

193D—3.2(544B,17A) Continuing education requirements. In order for professional landscape architects to provide competent, professional services to the public, continuing education will consist of learning experiences that enhance, expand and keep current the skills, knowledge, and abilities of practicing professionals. Professional landscape architects may pursue learning experiences in technical, nontechnical, regulatory, ethics and business practice areas, provided that the continuing education directly benefits the health, safety, and welfare of the public.

3.2(1) Hours required. Each registrant will complete during each two-year licensing term a minimum of 24 hours of continuing education approved by the board. Compliance with the continuing education requirements is a prerequisite for license renewal.

3.2(2) Within any biennial renewal period, 24 hours of continuing education must be acquired and will be in health, safety, and welfare subjects acquired in structured educational activities. A licensee may apply up to 12 continuing education hours obtained in excess of the requirement for a renewal period to the continuing education requirements for the following renewal period. Continuing education hours may be acquired in any location.

3.2(3) A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure will not be required to report continuing education at the first license renewal. A professional landscape architect who holds a license in Iowa for more than 12 months but less than 24 months from the date of initial licensure will be required to report 12 hours of continuing education in health, safety, and welfare subjects earned in the preceding 12 months at the first license renewal.

3.2(4) Sources of continuing education. The following suggested list may be used by all licensees to determine the types of activities that may fulfill the continuing education requirements. All hours of continuing education must also comply with the directive in subrule 3.2(2).

a. Hours of continuing education in attendance at short courses or seminars dealing with landscape architectural subjects and sponsored by colleges, universities or professional organizations.

b. Hours of continuing education in attendance at presentations on landscape architectural subjects that are held in conjunction with conventions or at seminars related to material use and function. Presentations such as those presented by CLARB, American Society of Landscape Architects, Construction Specification Institute, Construction Products Manufacturers Council or similar organizations devoted to landscape architecture education may qualify.

c. Hours of continuing education in attendance at short courses or seminars relating to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers.

d. Hours of continuing education spent presenting or teaching courses or seminars in landscape architecture. Three preparation hours may be claimed for each class hour spent teaching landscape

architectural courses or seminars. College or university faculty members may not claim credit for teaching regular curriculum courses.

e. Hours of continuing education spent learning through professional service to the public that draws upon the licensee's professional expertise on boards and commissions, such as serving on planning commissions, building code advisory boards, urban renewal boards, code study commissions or community boards. Hours of continuing education under this paragraph will be limited to six hours earned in any biennial renewal period.

f. Hours of continuing education spent in landscape architectural research that is published or formally presented to the profession or public. Credit may be claimed only following proof of publication or presentation. Hours of continuing education under this paragraph will be limited to 12 hours earned in any biennial renewal period.

g. Hours of continuing education spent in distance learning that concludes with an examination or other verification of course completion.

h. College or university courses dealing with landscape architectural subjects or business practices. Each semester hour equals 15 hours of continuing education. A quarter hour equals ten hours of continuing education.

i. Hours of continuing education spent in educational tours or tours in areas significant to landscape architecture when the tour is sponsored by college, university or professional organizations and verification of participation is provided by the tour sponsor. Self-guided tours do not qualify. Hours of continuing education under this paragraph will be limited to six hours earned in any biennial renewal period.

j. Hours of continuing education spent attending in-house educational programs, including dinner, luncheon, and breakfast meetings.

3.2(5) Financing. It is the responsibility of each licensee to finance the costs for continuing education.

193D—3.3(544B,17A) Compliance.

3.3(1) Each professional landscape architect will file with the board a signed report, under penalty of perjury, on forms provided by the board or by online renewal, setting forth the continuing education activities in which the professional landscape architect has participated. The report will be filed with the renewal application for each two-year renewal period in which the claimed hours of continuing education were completed. The information in the report will include:

a. The school, firm or organization conducting the course.

b. The location of the course.

c. The title of the course and a description of the content.

d. Names of the principal instructor(s).

e. The dates attended.

f. All hours claimed.

g. In instances of service on a professional or community board, or other undocumented hours of continuing education (non-health, safety, and welfare documentation such as learning units or professional development hours), the licensee will provide a narrative description of the materials the licensee reviewed, the nature of the licensee's service, and a description as to how the licensee's claimed hours of continuing education have contributed to the health, safety, and welfare of the public.

This information shall be kept by the licensee for reported hours of continuing education for two years.

3.3(2) A professional landscape architect's continuing education report forms or online renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance will be maintained by the professional landscape architect for two years after the period for which the form was submitted and will include written verification of attendance by someone other than the licensee. Examples of evidence may include but are not limited to a certificate of completion presented by the program sponsor, a letter from an employer verifying attendance at an

in-firm training session, or copies of minutes from public service meetings. Canceled checks, slideshow presentations, email confirmation or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

3.3(3) Any discrepancy between the number of continuing education hours reported and the number of continuing education hours actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any continuing education hours, or the licensee has failed to complete the required continuing education hours, the landscape architect will have 60 days from board notice to either provide further evidence of having completed the continuing education hours disallowed or remedy the discrepancy by completing the required number of continuing education hours (provided that such continuing education hours will not again be used for the next renewal). Extension of time may be granted on an individual basis and will be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action.

193D—3.4(544B,17A) Hearings. In the event of denial, in whole or in part, of any application for approval of credit for continuing education activity, the licensee will have the right, within 20 days after the date of notification of the denial by mail, to request a hearing by the board. The hearing will be held within 60 days after receipt of the request for the hearing. The decision of the board will be final.

193D—3.5(544B,17A) Physical disability, illness, hardship, or extenuating circumstances. The board may, in individual cases involving physical disability, illness (certified by a medical doctor), hardship, or extenuating circumstances, grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time will be granted unless the licensee makes a written request to the board for such action.

193D—3.6(544B,17A) Methods of compliance and exemptions.

3.6(1) A licensee licensed to practice as a professional landscape architect will be deemed to have complied with the continuing education requirements during the continuing education compliance period that the licensee:

a. Serves honorably on active duty in the military service; or

b. Resides in another state or district having a continuing education requirement for the occupation or profession and meets all the requirements of that state or district for practice therein; or

c. Is a government employee working as a professional landscape architect and assigned to duty outside the United States; or

d. Is approved by the board for periods of active practice and absence from the state.

3.6(2) If the licensee was not engaged in active practice as a professional landscape architect and will maintain inactive status during the period for which renewal is requested, the board may exempt the licensee from continuing education. No exemption will be granted without a written request from the licensee.

193D—3.7(544B,17A) Grounds for denial of license renewal. Failure of a licensee to complete the continuing education requirements as set forth in this chapter, or failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption will be grounds for the board to deny renewal of the license.

This chapter is intended to implement Iowa Code chapters 17A and 544B and Executive Order 10.