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IP

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HCR 3070

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3070

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1	x		6.8-48.0
2	x		20.9-30.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Keiser** opened the hearing on HCR 3070.

Rep. RaeAnn Kelsch, District 34, introduced HCR 3070. She stated that this legislation is a compromise to HB 1204 that was heard and passed in the House of Representatives before Crossover. The intent of this resolution is to basically accomplish the same goal as HB 1204 but offers a proactive and realistic timetable to schedule the licensing of landscape architects. The AIA North Dakota Chapter, Board of Registration for Professional Engineers and Land Surveyors, The State Board of Architecture, The North Dakota Council of Engineering Companies, and the North Dakota Society of Professional Engineers are all in support of this resolution. All these organizations were opposed to HB 1204. The essence of this is contained in the last "whereas" which states that any future practice of architecture, engineering, land surveying and landscape architecture will require careful consideration of overlapping practice and practices distinct to each profession". She urged a do pass on HCR 3070.

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House Industry, Business and Labor Committee

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Hearing Date February 26, 2003

Rep. Froseth: What is the purpose of this resolution if HB 1204 passed in the House and will be heard in the Senate?

Rep. Kelsch: It still needs to happen because this has "more meat". It needs to be examined more closely than HB 1204.

Rep. Severson: What is the reason for the delayed action in here? HB 1204, if passed, will go right into law. Have the sponsors of HCR 3070 considered amending HB 1204?

Rep. Kelsch: Part of the reason is the fact that bill was opposed by so many groups. This gives a more realistic time table as to the implementation. Plus it gives more careful consideration into making sure there are no overlapping disciplines or overstepping of bounds. I suggest asking Ms. Staiger about the reasons for not considering amending HB 1204.

Bonnie Staiger, Executive Director of AIA North Dakota Chapter and Board Administrator of the State Board of Architecture, appeared to testify in support of HCR 3070. After distributing a sample of Astroturf for her testimony, she stated that this is not a turf war, it is about timing and responsible legislation. She noted that the language was changed by Legislative Council to read "shall study" rather than "would study". In two years, the two boards and three professional organizations will come forth with legislation that everyone can support.

Rep. Kasper: Where is the problem in HB 1204 that will be resolved with HCR 3070?

Staiger: We don't need to go into the list of problems inherent in HB 1204. I want to focus on the positive aspects of HCR 3070. I promise, we want to be proactive.

Rep. Klein: Do you have examples of combined registration from Iowa and other states that have combined registration?

Staiger: We can get that data and information. It will take time to gather it together.

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House Industry, Business and Labor Committee

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Rep. Ekstrom: An infinite amount of work indicates an infinite amount of time to get it done.

Do you have a timetable that will outline getting a reasonable bill together? Do you recall when the landscape architects approached the AIA, seeking licensure?

Staiger: The Board of Engineers and the Board of Architects are committed to have a bill in two years. My recollection is that two landscape architects approached the State Board in 1998. The Board declined that opportunity. Opening the statute was inadvisable at that time, as legislative hurdles can be formidable.

Rep. Severson: With HB 1204 in the Senate, and if this were to pass, you have the opportunity to provide amendments to delay that.

Staiger: I understand your concerns. We are committed to bringing you a bill that irons out all the problems and doesn't give the two boards legislation that is riddled with problems.

Chairman Keiser: What role do you see the Board of Engineering playing in this issue?

Staiger: Look at the last "whereas", there is a overlapping of the two practices. Landscape architecture has significantly more impact on engineering. Engineers need to be a part of the process.

Rep. Ekstrom: Landscape architecture is licensed in 46 other states, do you mean to tell me that engineers in those states haven't faced and dealt with these same problems? Have you explored what their laws look like in terms of licensure?

Staiger: We haven't looked at that simply because we haven't had to until HB 1204 was dropped in our laps. It wasn't on the radar screen.

Don Barsness, appeared in support of HCR 3070. (See attached)

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House Industry, Business and Labor Committee
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Rep. Severson: You have opportunity to add input to HB 1204, are you willing to put time into HB 1204 to get what you need? That doesn't mean it couldn't be adjusted in two years. Why can the issues be addressed now?

Barsness: Perhaps some issues could, but other groups need time to address their concerns about overlap. Had we had the chance prior to it being submitted in bill form, we could have done more research. When it went through Legislative Council and the engrossment came, there are so many modifications. We don't have time in the short span of the legislative process to look at this in depth.

Rep. Severson: It's seven pages because we tried to amend it to make it plausible. I think you have the time.

Barsness: We'll do our best to look at HB 1204. But we'd like to have the alternative in place to make sure it's all right. We've never said we object to L.A.'s being licensed. Our biggest concern is that those legislators who are not our friends. Once this is opened up, it's fair game for other aspects, that's why we froze in place. Maybe it was four years ago.

Rep. Klein: We have 40-80 resolutions put to Legislative Council to study and only 20-30 get picked for study. Why don't you do the study? What if this isn't chosen? What precludes you from working on a study on your own without a Legislative Council study?

Barsness: That was our first inclination, to get the associations and boards together and do a study in the next two years. This is such a big issue, it has to be done right.

Rep. Jasper: On page one of your testimony, you state that you don't recall anyone suggesting that L.A. licensure be encouraged, the last session was the first mention of it. This is the key sentence, "We said we'd prefer if they draft their own bill". This implies that happened two years

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House Industry, Business and Labor Committee

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ago. You're saying now, we don't have time, we'd thought they'd go away. They come up with a bill, now you don't like it. Where were you two years ago when they asked for your participation?

Barsness: What I intended to say in that statement, we asked them to set up their own board, separate from the Board of Architecture.

Chairman Keiser: Are you at all concerned about letting the legislature have a go at this?

Barsness: We hope this will focus on the issue at hand, as opposed to everything else.

Rick Engebretson, testified in support of HCR 3070. (See attached)

Rep. Severson: You've hired a landscape architect for 8 years and now that person has moved to Iowa. Why?

Engebretson: There's not enough work for him in this state. My current L.A. spends 20% of her time in that professional capacity and 80% on CAD drawings. In my practice, 80% of the 20% of landscape architecture is from out of state contracts.

Rep. Kasper: You make mention in your testimony of finding out how other states do this. You're licensed in several states, isn't it easy enough for you to get the rules and guidelines of other states where you do business? And then that information could be incorporated into the work your organization is planning to do here in the next two years?

Engebretson: You're right. But I am in 9 states, so there are 9 ways to practice these disciplines. I'm a licensed professional corporation in North Dakota, act as a professional association in Minnesota, business laws are so different. We can't get our own rules changed in two years, go through legal counsel etc.

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Chairman Keiser: So landscape architecture is far more like engineering than architecture, is that the direction it should go?

Engbretson: That's a possibility. Some states have joint boards. We don't have enough time to get this ready by August 1, 2003.

Engbretson distributed written testimony in support of HCR 3070 prepared by **Bill Schoen**.

(See attached)

Gary Arman, Chairman of the Board of Registration for Professional Engineers and Land Surveyors, offered oral testimony in support of HCR 3070.

Chairman Keiser: We won't create a new board for a small group. Do you want landscape architects under the aegis of architects or engineers? If you can work with the geologists, why can't this be resolved with the landscape architects?

Arman: We'll consider that carefully.

As there was no one else present to testify in support or opposition to HCR 3070, **Chairman Keiser** closed the hearing.

Chairman Keiser called for committee work on HCR 3070.

Rep. Kasper: It appears that these folks who came in to testify this morning are assuming that they can't fix it in the Senate, they're trying to fix a problem that isn't there yet. I don't like their resolution.

Rep. Ekstrom: They didn't cooperate before.

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House Industry, Business and Labor Committee

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Rep. Froseth: If the Senate amends the starting date until 2005, that bill will go into effect if they don't do anything in the next two years. This puts the burden on the Legislative Council. I agree with Rep. Kasper. Let's kill this.

Chairman Keiser: There are three areas of concern for those who are supporting the bill.

1. Income for covering expenses of landscape architects
2. Delay in implementation
3. Flexibility in developing rules for implementation

Rep. Ruby: What about the position that landscape architecture is closer to civil engineering than architecture?

Rep. Ekstrom: The way to fix that is to stipulate that landscape architects are excluded from performing various defined duties. I'm thinking about the retaining wall example that was cited.

Rep. Kasper: Remember the students who testified here. It's ludicrous that graduates can study and get a degree here but cannot be a recognized to practice their profession here.

Rep. Froseth: Is there enough work in North Dakota? If they were licensed here, they could get reciprocity with other states, work on projects there but still reside here.

Rep. Klein: The Air Force Base in Minot and DOT bids several projects each year that require landscape architects. The work is here but since we don't license landscape architects, those projects are bid out of state.

Rep. Kasper: If we pass this along, it would be leverage to kill HB 1204.

Rep. Ekstrom moved a **Do Not Pass** to be Placed on the Consent Calendar.

Rep. Kasper seconded the motion. Results of the roll call vote were 10-3-1.

Date: ~~2/2/03~~ 12/26/03
 Roll Call Vote #: /

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR-3070

House INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number ~~11111111~~

Action Taken DNP ; Place On Consent Calendar

Motion Made By EKSTROM Seconded By KASPER

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe		✓
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe		✓
Froseth	✓		Zaiser		
Johnson	✓				
Kasper	✓				
Klein		✓			
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Ruby

If the vote is on an amendment, briefly indicate intent:

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J. Costa Rickford 10/16/03
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REPORT OF STANDING COMMITTEE (410)
February 27, 2003 10:53 a.m.

Module No: HR-35-3561
Carrier: Ruby
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HCR 3070: Industry, Business and Labor Committee (Rep. Kelsor, Chairman)
recommends **DO NOT PASS** and **BE PLACED ON THE CONSENT CALENDAR**
(10 YEARS, 3 NAYS, 1 ABSENT AND NOT VOTING). HCR 3070 was placed on the
Tenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-35-3561

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2003 TESTIMONY

HCR 3070

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Good morning/afternoon Chairman Kelsner and Committee Members. I'd like to thank you for allowing me the opportunity to appear in front of you and express my opinion/feelings on HCR 3070.

For the record, my name is Donald Barsness, Architect from Bismarck. I am one of several Bismarck Architects who serve as legislative liaisons for the American Institute of Architects, North Dakota Chapter and am here to express support of HCR 3070. HB1204 in its current configuration has many unanswered questions that need to be addressed. Neither I nor any of my colleagues, that I know of, object to licensing Landscape Architects. The purpose of licensing is for the public's health, safety and welfare. I have a difficult time understanding the sense of urgency, as I don't see any imminent threat to the public's health, safety and welfare.

It has been suggested that Landscape Architects have been trying for at least 10 years to establish a licensing law according to the bills sponsor proponents.

I served on the AIA ND Board starting in 1995 and as President from 1997-1999. I have also served on the Governmental Affairs Committee (legislative liaison) prior to and following my tenure. I do not ever recall anyone suggesting that LA licensing be encouraged. The last session was the first mention of it to the AIAND. The Architects were asked and we said we would prefer they draft their own as we had tried modifying Section 43-03 twice in previous years but

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withdrew them both times as the legislators "finkered" with modifications to what we wanted which only made it worse than we already had on the books.

Those of us that try to follow the legislation during each session are practicing professionals with busy schedules and simply do not have time in this "window" to review and reject or approve this sort of far reaching language. Additionally, other members need to be notified and given the opportunity to comment.

HB 1204 started out as a 1 ½ page bill, now it is 7 pages. I see new no reason to make a "heat of passion" mistake by feeling this must be done now. Again, I ask what is the sense of urgency? Will this prevent any current Landscape Architects from practicing? No.

I believe we can all benefit by supporting HCR 3070.

Thank you.

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February 26, 2003

Chairman Kelsner, and members of the industry, Business and Labor Committee.

For the record, my name is Rick Engbretson. I reside and work in Fargo. I am here to speak in favor of House Concurrent Resolution 3070 (HCR 3070).

My qualifications for being able to speak on this subject are as follows:

1. I am registered Architect in the State of North Dakota, with current reciprocal licenses in Wisconsin, Minnesota, Iowa, South Dakota, Nebraska, Montana, Colorado & Arizona;
2. Governor Hoeven recently appointed me to the State Board of Architecture with my term beginning March 15, 2003;
3. I am an Advisory Board member to the NDSU Department of Architecture and Landscape Architecture;
4. I am majority stock-holder of R.L.Engbretson, P.C. and R.L.Engbretson Co. with 37 employees engaged in the practice of Architecture, Construction and Interior Design with offices in North Dakota and Arizona;
5. Our firm currently employs one Intern Landscape Architectural graduate from NDSU's Department of Architecture and Landscape, who will be taking her Landscape Architecture test this next fall in the State of Iowa; Previously our firm employed one registered Landscape Architect, who graduated from NDSU, worked for our firm for 8 years, received his Landscape Architecture license through the State of Iowa and then moved to Omaha Nebraska to pursue Landscape Architecture;

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Personally and professionally, I am in favor of licensure of Landscape Architects in the State of North Dakota. However, my concern is the Engrossed House Bill No. 1204 (HB 1204). There are some financial and practical consequences of HB 1204 to the North Dakota State Board of Architecture, its registrants and allied professional engineers that HCR 3070 would allow sufficient time for careful consideration of the Administrative Codes to govern the practice of Landscape Architecture.

The current President of the State Board of Architecture prepared a preliminary Fiscal Note for HB 1204 to try to establish the possible income and expenses of the testing, licensing and administration of the Landscape Architects. This preliminary study indicated that the Landscape Architecture biennium registrant income will not cover the expenses to administer the Landscape Architecture testing and administration of the registrants, which will result in a loss for the State Board of Architecture. With HB 1204 establishing the maximum of \$500.00 registration fee for the Landscape Architects and not knowing how many Landscape Architects will be registering each year, we may have costs divided by the number of registrants that will exceed the maximum \$500.00 fee. These issues could be easily addressed with HCR 3070.

The State Board of Architecture has just completed rewriting the North Dakota Administrative Code, Title 8 Board of Architecture, Rules and Regulations for the Practice of Architecture (Architect's Rules and Regulations). According to the State Board of Architecture's President the redraft took over two years, approximately in \$8,000 legal fees and lots of hours by Board Members. The passage of HB 1204 must marry the Landscape Architecture practice into the Architect's Rules and Regulations, without regard to the fact that Landscape Architecture is only an allied profession rather than direct service of Architecture. Based on the HB 1204's definition of Landscape Architecture, it relates closer to the practice of Civil Engineering than Architecture.

What really mystifies the State Board of Architecture, its registrants and allied professional engineers is the immediate need to press HB 1204 into Law. Proponents of HB 1204 are obsessed on getting this passed without the proper impact study such as HCR 3070 on how the State Board of Architecture will govern the Landscape Architects. We believe that HCR 3070 should be the first step before legislation. This study will not impact the citizens of North Dakota because:

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1. The State of North Dakota for 114 years has survived without Registration of Landscape Architects and the NDSU Department of Architecture and Landscape Architecture has prospered for 15 years without registration in North Dakota for its landscape graduates, so two more years will not be a serious problem.
2. Throughout history, the State of North Dakota's registered Architects and Engineers have handled public's health, safety and welfare quite adequately. So, I assume we can handle it for another two years, while a study is completed.
3. The State of North Dakota's Architects are not protecting their practice turf, since Architects can continue to perform the work with the proposed legislation and a majority of HB 1204's definition of Landscape Architecture is related to civil engineering.
4. NDSU's Department of Architecture and Landscape Architecture will not be impacted if legislation doesn't pass for another two years. The program is currently full and the students come to North Dakota for an excellent inexpensive education. Besides, more than 80% of the students leave for real and perceived greener pastures, because there isn't enough landscape work to keep to them here.

There are a lot of questions that need to be answered. HCR 3070 will allow us to sort out these questions. A sampling of these questions are:

1. What other states are doing? Some states have separate boards for landscape architecture. Some states have joint board's architecture and landscape architecture. How do these states handle the practice of Landscape Architecture?
2. How long will it be before the State Board of Architecture can rewrite the Architect's Rules & Regulations to govern the practice of Landscape Architecture? Some say we need to have the language in place by August 1, 2003. That's four months to research and review other state legislation, write the new codes language, and have the Board of Architecture vote on it. The Board of Architecture needed over two years to revise the Architect's Rules and Regulations.

3. How long will it be before the State Board of Architecture can set up the process for administering the examinations for Landscape Architects seeking licensure? Do we need to have the test ready in time for qualified candidates to take the test in concert with the Council of Landscape Architecture Registration Boards in June and if they pass be able to be registered by August 1, 2003? Our central office needs to meet with the Council of Landscape Architectural Registration Boards to set up the mechanisms for the testing.
4. How long will it be before the State Board of Architecture needs to begin allowing for licensing the practice of Landscape Architecture? Is August 1, 2003 the official date that we need to give out the first license, or which we accept applications, or when we sent out applications?
5. Who is going to pay for the State Board of Architecture's legal expense, initial fees, communication costs with the Council of Landscape Architecture Registration Boards, and other incidentals necessary to establish these new revisions to the Architect's Rules and Regulations for the registration of Landscape Architects, commencing with the passage of HB 1204 legislation and receipt fees from the first group of registrants? The State Board of Architecture's legal reserve fund is low based on national averages, so do the Architect's have to fund it during the interim?
6. How much is it going to be the yearly cost of the State Board of Architecture to administer a relatively small group of licensed Landscape Architects?

As a newly appointed member of the State Board of Architecture, I am one of three people that must sort out the "after-the-fact" repercussions of Engrossed House Bill No. 1204. And I'm not too excited about that. We can do a much better job if we have findings of the proposed HCR 3070 to establish the appropriate law and rules for the practice of Landscape Architects.

What makes common sense is to have the study proposed in HCR 3070 completed with input from the State Board of Architecture, the State Board of Professional Engineers, and the American Society of Landscape Architects to:

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1. determine the appropriate State Board to govern the practice of Landscape Architecture;
2. determine the probable income and expense from resident and non-resident Landscape Architects, and set appropriate fees;
3. determine the process and cost of administering the license exam;
4. determine the appropriate laws, rules and regulation language to govern the practice of Landscape Architecture; and,

then come to the legislature in 2005 for a comprehensive bill for the licensure of Landscape Architects with everything in place to begin administering of this newly enacted profession in the State of North Dakota, immediately upon the legislation enactment.

Thank you for allowing me this time to address House Concurrent Resolution 3070. I would be happy to answer any questions.

La Costa Rickford
Operator's Signature

10/16/03
Date

N D S B A

ND State Board of Architecture • 419 East Brandon Drive • Bismarck, North Dakota • 58501-0410 • 701-223-3184

Bonnie Larson Stalger
Board Administrator

February 26, 2003

Chairman Keiser and Members of the Industry, Business and Labor Committee:

The North Dakota State Board of Architects (NDSBA) recommends passage of HCR 3070.

A hasty passage of HB1204 with the amendment proposed by the Landscape Architects will result in a scenario similar to a shotgun wedding. The financial impact of adding Landscape Architects to the NDSBA will result in a dues increase for Architects to finance the Landscape Architects. Many meetings between the allied professionals will be necessary to coordinate statute language regarding overlapping practice. Many more meetings will be necessary to draft appropriate language incorporating current statute, NDSBA draft updates, NCARB Model Laws and ASLA or CLARB Model Laws. You can be assured, there will be return visits to the legislature for follow-up legislation.

A study resolution would create the best proactive scenario for a well-planned effort, that will eliminate the need for return visits to the legislature. Bringing all parties together and generating consensus will be a significant undertaking, but it is the correct way to take this issue forward.

Thank you for your consideration.



Bill Schoen
President, NDSBA

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