

# LEGISLATION VS. LANDSCAPES

Budgets and bureaucracy are common bonds for government landscape managers. Now, with some cities requiring certified contractors on jobs, and unions pushing for federal legislation, the red tape is closer to home. And government managers aren't the only ones affected.

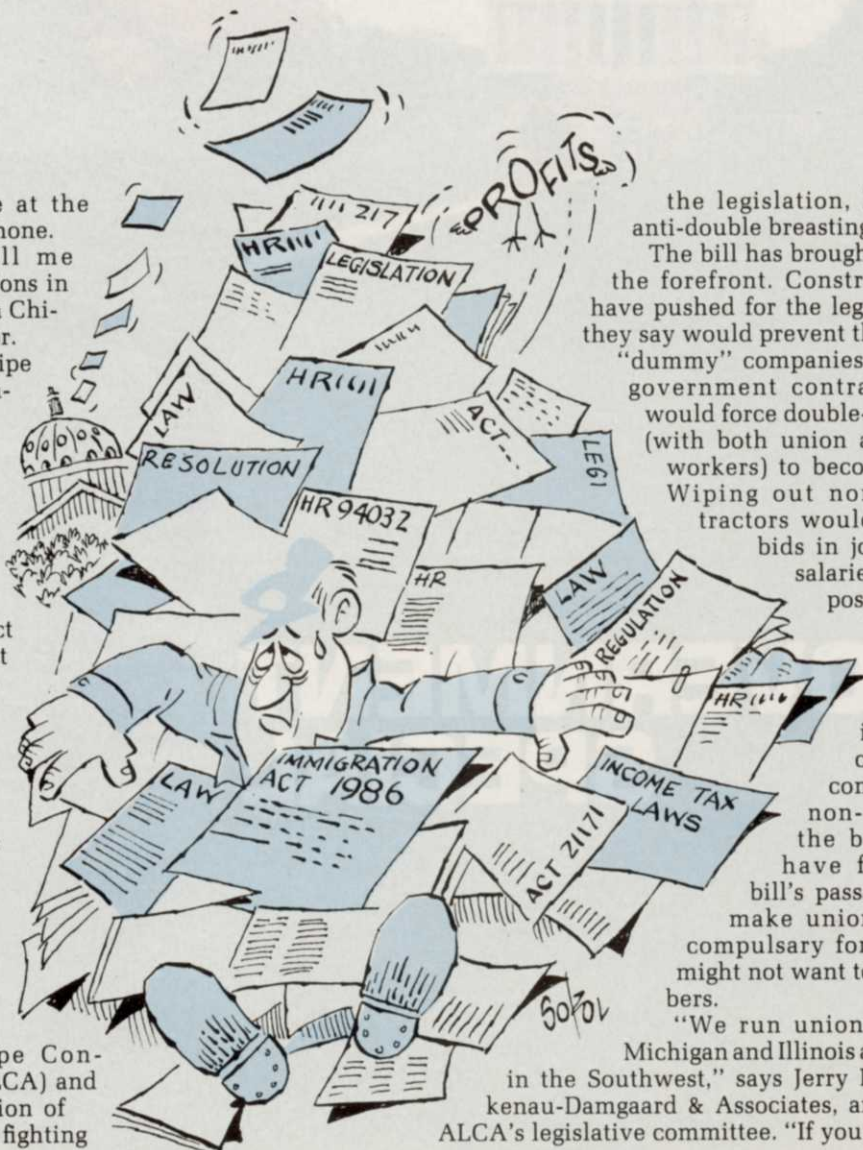
by Heide Aungst, managing editor

**T**here was silence at the other end of the phone.

"Can you tell me something about the unions in Chicago?" I repeated to a Chicago landscape contractor.

"They can virtually wipe out your business," he answered hesitantly. "That's an extremely touchy subject for this area, and we're at peace with them now."

Unions are a part of the green industry that's rarely been subject to debate. The fact is that some landscape contractors are unionized, some aren't, and some companies are both. But new legislation which passed the House in June (vote: 227-197) could force companies which have both union and open shops to become union or go out of business. Green industry associations such as the Associated Landscape Contractors of America (ALCA) and the American Association of Nurserymen (AAN) are fighting



the legislation, known as the anti-double breasting bill.

The bill has brought the debate to the forefront. Construction unions have pushed for the legislation, which they say would prevent the formation of "dummy" companies to get around government contracts. The bill would force double-breasted shops (with both union and non-union workers) to become unionized. Wiping out non-union contractors would force higher bids in jobs and higher salaries, say those opposed.

AAN and ALCA say that forcing companies into unions will cost companies contracts that the non-union side of the business could have fulfilled. The bill's passage also would make union membership compulsory for workers who might not want to become members.

"We run union operations in Michigan and Illinois and a non-union in the Southwest," says Jerry Lankeau, Lankeau-Damgaard & Associates, and chairman of ALCA's legislative committee. "If you talk in terms of



discipline, there's no comparison between the non-union crew in our trade and the union crew. The stronger the union, the less productivity."

If the Senate passes the bill, it is expected that President Reagan will veto it, says Ben Bolusky, AAN director of governmental affairs.

### Government unions

The legislation does not affect unionized landscape crews at government agencies. "There's a federal union here, but it's an option to join," says Ed Chmielewski, transportation/grounds foreman for the Cleveland Veterans Administration Hospital. "There's really no advantage to joining it." Chmielewski says he sees little difference on productivity levels of union or non-union workers.

Roadside developer Charles Gouveia says his landscapers at the Illinois Department of Transportation belong to unions. Most contracted highway jobs also go to unions, as is mandated by the use of federal funds.

"We don't always get quality work," Gouveia says. "Most of our people are teamsters who do a variety of things. Landscape maintenance is almost non-existent, so we design that way."

But, Gouveia says, things are better

than they used to be. "Our workers used to virtually change with party changes," he says. "Now you get career people who will go through training and get licensed."

### State certification/licensing

"The unions have not done this industry a favor," says Ken Gerlak of Contra Costa Landscaping in Martin, Calif. The California union put a stop to an apprenticeship program the California Landscape Contractors Association (CLCA) tried to initiate several years ago.

Ironically, disbanding the apprenticeship program gave CLCA more time to get its certification program off the ground. Since the program began in 1983, 117 contractors have become "certified landscape technicians (CLT)."

California requires all landscape contractors to be licensed. But certification is more involved. "Licensing requires the landscape contractor to know California laws and business laws, and to have a certain amount of knowledge of the field," Gerlak explains, "but it does not test people hands-on."

To become a CLT, the applicant must have a minimum 4,000 hours of work in the field and must perform a series of tasks including installing an irrigation system, planting trees and

shrubs, seeding, sodding, pouring concrete and running a tractor. Two cities in northern California now require public works jobs to be done by CLTs.

Greater Vahejo, a city with a population of about 150,000, passed a law this year requiring a landscape technician to be in charge during the installation of landscaping and irrigation. Fairfield is just starting similar regulations.

"I just think cities are tired of having unqualified people work on contracts," Gerlak says.

Landscape costs shouldn't be affected by the trend. "The union rate is about \$20 an hour, while a CLT might make between \$12-\$14," Gerlak says.

Martha Bradford, communications specialist at ALCA, says the issue of certification for contractors is divided among members. "Some people think certification is an added benefit that helps improve the image of landscape contractors," she says. "Others feel it doesn't buy you that much. What we need to do is study the issue more."

Lankenau is one ALCA member who's against certification. "If a young man or woman passes a driver's test, it doesn't stop him or her from speeding or driving drunk," he says.

But states and associations are implementing more certification programs.

The Professional Grounds Management Society (PGMS) started a program in 1982, but, so far, only 18 people have qualified for certification. The program requires applicants to have a combination of eight years education and experience, with several years in a supervisory capacity. Although the PGMS program is open nationally to members or non-members, many state landscape associations are starting their own programs to stave off government involvement.

Arizona is such a state. The first qualified participants were certified in November through a program started by the University of Arizona and three state associations.

"With landscape professionals training individuals, you can be more positive about getting people to classes. There's no coercion," says Paul Bessey, Ph.D. at the University of Arizona.

Participants go through six bi-monthly, day-long training sessions. Then they must pass a written exam and a hands-on test, which includes calibrating spreaders, repairing equipment, and identifying diseases.

Participants have included both government and private industry workers says Terry Mikel, extension agent. But both Bessey and Mikel say that, in the long run, the consumer benefits most from certification programs.

## Federal legislation affecting landscape contractors

**Anti-double breasting bill:** H.R. 281/S. 492 would force double-breasted shops (with both union and non-union workers) to become unionized. Wiping out non-union contractors would force higher bids in jobs and higher salaries, say opponents. AAN and ALCA say that forcing companies into unions could cost companies contracts, which the non-union side of the business could have fulfilled. Passage of the bill also would make union membership compulsory for workers who might not want to become members.

**Minimum wage bill:** H.R. 1834/S. 837 would require the minimum wage to increase from \$3.35 an hour to \$4.65 an hour by Jan. 1, 1990.

**Minimum health insurance bill:** H.R. 2508/S. 1265 would require companies to carry health insurance for all employees who work 17 1/2 hours a week or more.

**Parental/medical leave bill:** H.R. 925/H.R. 284/S. 249 would require 10 weeks parental or 15 weeks medical leave within two years for all employees at companies with 50 employees (dropping to 35 employees after three years). Employees qualify after one year of service.

**High Risk Notification Act:** H.R. 162/S. 79 states that if a population of workers has a 30 percent or higher risk than normal on the job for contracting a disease, the workers must be notified. ALCA and AAN say this will likely apply to landscapers' use of pesticides. The bill would require an employer to move a worker to another job at the same wage and benefits. If no such job exists, the employee can leave the job and still collect the wage and benefits for a year. The employer would be forced to pay all medical monitoring and tests for any workers falling in high-risk categories.



Still, neither likes the idea of state government regulating such programs. "I personally don't want anything to do with regulatory programs," Mikel says.

### Playing politics

States have long regulated pesticide applicators. Few landscape managers disagree with the purpose behind such safety measures, even though it varies between states.

"Under California law, every worker is under the blanket of my license," says Mark Hodnick, landscape supervisor at Cal-Poly Pomona. "That way, they make sure I stay on top of things."

Cities are now cracking down on landscape managers by passing laws.

"Anytime you're dealing in a government situation, you're dealing with politics," says Mark Eynatten, assistant director of parks and recreation for Coral Springs, Fla. "Specific interest groups impact on what you're able to do. Sometimes you have to change your priorities on a minute-to-minute basis."

Coral Springs is a planned community, which means landscaping laws are strict. "We impose strict guide-

lines on developers," Eynatten says. "As a result, we have to comply with the same level of landscaping." For example, he says, the city law states that parking lots must have a complete landscaped island every 40 feet.

### Federal legislation

EPA laws aside, the federal govern-

*'We're not crying wolf; these are real threats when totalled all up.'*

—Ben Bolusky

ment rarely gets involved in laws written directly to the landscape industry. But 1987 has seen the introduction of labor legislation which ALCA and AAN says will hurt the green industry.

The minimum wage bill, the minimum health insurance bill, and the parental/medical leave bill would escalate the cost of running a company, possibly closing down some small businesses.

"Labor-related issues affect all parts of the industry," Bolusky says. "We're not crying wolf; these are real threats when totalled all up."

A fourth piece of legislation currently before Congress, like the anti-double breasting bill, affects the landscape industry more closely. Bolusky says the High Risk Notification Act steps on state and community right-to-know laws, the OSHA Hazard Communication Standards (which go into effect in 1988), and the Farm Worker's Protection Standards (which fall under the EPA and FIFRA). "No one can argue that we've got to protect our workers, but one arm of the government doesn't know what the other arm is doing," he says.

Can so many laws be good for an industry?

"I would much prefer that we police ourselves than have the government involved," says PGMS executive director Allan Shulder.

The battle between legislation and the landscape will take organized efforts among professional industry groups to fight off excessive regulations.

Bolusky offers simple advice: "Write your representative." **LM**

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