

SUBJECT: Exempting religious groups' buildings from Architectural Barriers Act

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Wilson, Kubiak, Brimer, Goolsby, D. Jones, Pickett, Torres, Yarbrough

0 nays

1 absent — Dear

WITNESSES: For — William L. Walters, Bill T. Wilson, Russell Maddox

Against — Belinda Carlton, Coalition of Texans With Disabilities

On — Rick Baudoin, Texas Department of Licensing and Regulation

BACKGROUND: The Architectural Barriers Act (VACS art. 9102), enacted in 1993 to eliminate certain physical barriers encountered by persons with disabilities, has been implemented through rules of the Texas Department of Licensing and Regulation (TDLR). The agency's Texas Accessibility Standards (TAS) apply to:

- state, county or municipally funded buildings constructed or renovated after 1970;
- buildings leased or rented by the state after 1972;
- privately funded buildings defined as a public accommodation by sec. 301(7) of the Americans with Disabilities Act (ADA) if constructed or substantially renovated after January 1, 1992;
- privately funded buildings defined as a commercial facility by ADA sec. 301 that are constructed or substantially renovated after September 1, 1993; and
- federally funded buildings to the extent there is no conflict with federal law.

TDLR interprets public accommodation as defined in the ADA to exclude buildings primarily used for worship and religious education.

DIGEST: HB 1612 would exempt from the Architectural Barriers Act buildings owned or controlled by a religious organization, including a place of worship. The bill would take effect immediately if approved by two-thirds of the membership of each house.

SUPPORTERS SAY: HB 1612 would properly codify into the Architectural Barriers Act an exemption that already exists in state policy. The ADA exempts buildings owned or operated by a religious entity from most public accommodations requirements. The same interpretation is made by TDLR regarding buildings used for worship and religious education. The problem is that some Texas cities, operating contrary to TDLR interpretations, interpret their local TAS-based building codes to apply TAS to churches.

Application of TAS standards to churches requires that virtually every area of a church be accessible, creating unreasonable rules, such as that baptismal fonts be made wheelchair accessible, even at costs of \$25,000 to \$35,000, when alternatives such as carrying a person into the water would be safer, cheaper and more sensible.

These unreasonable requirements burden small churches with small budgets and detract from the traditional, religious feeling of a house of worship. State-imposed restrictions on such liturgical facilities as baptismal fonts might even infringe on First Amendment rights.

Varying interpretations of the Uniform Building Code and other building codes adopted by municipalities create uncertainty as to whether TAS should apply to religious-owned or operated buildings, resulting in increased building costs from delay and redraft of plans. HB 1612 would make it clear that the state does not require every area of a church to be accessible. The bill would still allow municipalities to adopt building codes requiring the locally desired level of accessibility.

An author's amendment will clarify that the bill is meant to apply only to buildings used primarily as places of worship and for religious education.

OPPONENTS
SAY:

HB 1612 would create a large loophole that would allow church-controlled schools and hospitals to discriminate against the disabled. Moreover, it would not solve the problem that local interpretations of building codes have caused for churches. The purpose of the Architectural Barriers Act is to eliminate unnecessary barriers to the disabled so that they can engage in gainful occupations and achieve maximum personal independence. For major church-affiliated hospitals and church-run schools to build or remodel buildings without taking into account barriers to the disabled would severely limit employment, medical treatment and educational opportunities of the disabled.

TDLR already interprets the law to exempt places of worship and religious education from most of accessibility requirements. Broadening this interpretation to include *all* religious-owned or -operated buildings would seriously undermine the law. Neither would it help local areas that have adopted the TAS interpret their building codes. Definitions used in the building codes and the Architectural Barriers Act often differ, and local codes might still be viewed as applying to religious-owned or operated buildings.

Allowing any exemption for churches is detrimental to disabled people. If, for instance, a house of worship is built with a pulpit and other non-public areas of the church that are not accessible to the disabled, this would preclude hiring of a disabled member of the clergy for years to come.

OTHER
OPPONENTS
SAY:

The Legislature, in adopting the Architectural Barriers Act, purposefully declined to put into law an exemption for religious-owned or -operated buildings because the state of Texas wanted to provide more protection to the disabled. This bill would undermine the original intention of the law.

NOTES:

Rep. Kubiak said he plans to offer an amendment that would limit the exemption to buildings used primarily as places of worship and for religious education.