

## **BILL ANALYSIS**

Senate Research Center  
76R3615 CLG-D

S.B. 959  
By: Barrientos  
State Affairs  
4/19/1999  
As Filed

### **DIGEST**

In 1990, the U.S. Congress approved an architectural barriers program called the Americans with Disabilities Act (ADA), similar to Texas' architectural barrier law passed in 1970. There exists some inconsistencies between the two programs. The commissioner of licensing and regulation oversees laws regarding architectural barriers. S.B. 959 would amend certain provisions of Texas's compliance with ADA and makes the board of the Texas Commission of Licensing and Regulation, rather than the commissioner, the enforcer of ADA.

### **PURPOSE**

As proposed, S.B. 959 amends certain provisions of Texas' compliance with the Americans with Disabilities Act.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13(a), Article 1900, V.T.C.S., to prohibit the Texas Commission of Licensing and Regulation (commission) from delegating to the commissioner of licensing and regulation (commissioner) the authority to exercise all or part of the commission's duties and functions under Article 9102, V.T.C.S.

SECTION 2. Amends Section 1, Article 9102, V.T.C.S., to delete in the state policy the provision "when such persons cannot readily use public building" in the intention to eliminate unnecessary barriers encountered by persons with disabilities whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

SECTION 3. Amends Sections 2(a), (d), (e), and (f), Article 9102, V.T.C.S., to apply this article to a building or facility that is constructed or renovated on or after January 1, 1970, rather than a facility used by the building or substantially renovated on or after January 1, 1970; and to a privately funded building or facility defined as a "public accommodation" by the Americans with Disabilities Act (ADA) and its subsequent amendments, that is constructed or renovated on or after January 1, 1992, rather than to a facility defined as a "public accommodation" by ADA, or substantially renovated by January 1, 1992. Requires certain owners to present proof required by Subsection (c) (2) to the commission, rather than the commissioner. Prohibits the commission, rather than the commissioner, from waiving any standard or specification when the commission knows that waiving or modifying a standard or specification would result in a violation of the ADA and its subsequent amendments. Makes conforming changes.

SECTION 4. Amends Section 2(c), Article 9102, V.T.C.S., to make conforming changes.

SECTION 5. Amends Section 3(b), Article 9102, V.T.C.S., to make conforming changes.

SECTION 6. Amends Section 4, Article 9102, V.T.C.S., to redefine "architect" and define "disability," and to define "interior designer" and "landscape architect."

SECTION 7. Amends Section 5, Article 9102, V.T.C.S., as follows:

Sec. 5. New heading: DEPARTMENT RESPONSIBILITIES. Authorizes the commission to contract with certain agencies to perform a review and inspection for facilities, rather than privately financed buildings, that are not leased by the state or political subdivision. Requires the standards and specifications to be adopted by the commission under this article to be equivalent to or more stringent than those adopted under federal law, rather than consistent with the ADA and published for the public. Requires certain reviews by the Texas Department of Licensing and Regulation (department) to be approved within a certain date after construction begins, rather than before construction. Deletes the requirement that automatically approves certain resubmitted plans within a certain date if not approved by that date. Requires plans relating to the building to be submitted to the department by the landscape architect, or the owner if there is no landscape architect. Requires the department to notify certain state professional boards or a licensing authority that regulates an individual, if a landscape architect fails to submit the required plans. Deletes certain requirements that the department contract with a municipality regarding inspection functions for privately financed buildings. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Section 6, Article 9102, V.T.C.S., to require the commission to set and charge in accordance with Article 9100, V.T.C.S., certain fees, rather than charge the fees in accordance with Section 12, Article 9100, V.T.C.S.

SECTION 9. Amends Section 7(d), Article 9102, V.T.C.S., to make conforming changes.

SECTION 10. Amends Section 681.009(b), Transportation Code, to require a political subdivision to designate certain parking spaces as established by the Texas Commission of Licensing and Regulation, under Section 5(i), Article 9102, V.T.C.S., rather than the commissioner of licensing and regulation under Section 5(c), Article 9102, V.T.C.S.

SECTION 11. Requires certain rules adopted by the commissioner to continue as a rule of the commission.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 1999.

SECTION 14. Emergency clause.