

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 484
By: Duncan
State Affairs
2/20/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the Texas Department of Licensing and Regulation's (department) Architectural Barriers (AB) program has 12 inspectors and 12 reviewers who perform the function of inspecting and reviewing buildings and facilities for compliance with the Architectural Barriers Act. The department has experienced difficulties meeting the increasing number of requests for reviews and inspections of buildings and facilities that are subject to compliance. As proposed, C.S.S.B. 484 provides for restructuring to facilitate a change of the department's AB program from one of inspection and plan review to that of an audit and oversight structure.

RULEMAKING AUTHORITY

This bill expressly grants rulemaking authority to the commissioner of licensing and regulation in SECTION 2 (Section 5A, Article 9102, V.T.C.S.) and SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5, Article 9102, V.T.C.S., by amending Subsections (d), (n), (o), and (p), and adding Subsection (q), as follows:

- Deletes existing text pertaining to certain organizations and contractors. Deletes existing text pertaining to leases.
- Provides that the owner of each building or facility that is subject to this article and that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Texas Commission of Licensing and Regulation (commission) under this article within a certain specific deadline. Deletes existing text pertaining to inspection. Requires the inspection to be performed by the Texas Department of Licensing and Regulation (department), an entity with whom the commission contracts under Subsection (d) of this section, or a person who holds a certificate of registration issued under Section 5A of this article.
- Requires the department, an entity with whom the commission contracts under Subsection (d) of this section, or a person who holds a certificate or registration issued under Section 5A of this article to perform an on-site inspection of each building or facility leased, rather than all buildings and facilities to be leased, by the state before the building or facility is occupied in whole or in part by the state for compliance with all accessibility standards and specification adopted under this article. Deletes existing text pertaining to other provisions of this article. Makes conforming changes.

SECTION 2. Amends Article 9102, V.T.C.S., by adding Section 5A, as follows:

Sec. 5A. CERTIFICATE OF REGISTRATION. (a) Prohibits a person from performing a review or inspection function of the commission on behalf of the owner of a building or facility

unless the person holds a certificate of registration issued under this section.

- (b) Provides that this section does not apply to certain specific employees.
- (c) Requires an applicant for a certificate of registration to file with the commission an application on a form prescribed by the commissioner of licensing and regulation (commissioner).
- (d) Requires an applicant, to be eligible for a certificate of registration, to satisfy any requirements adopted by the commissioner by rule, including education and examination requirements.
- (e) Authorizes the commissioner to issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.
- (f) Authorizes the commissioner to administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions. Requires the commissioner, not later than the 30th day after the examination date, to notify each examinee of the results of the examination.
- (g) Requires the commissioner to issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.
- (h) Requires the commissioner by rule to specify the term of a certificate of registration issued under this section.
- (i) Authorizes the commissioner by rule to require certificate holders to attend continuing education courses specified by the commissioner. Authorizes the commissioner to recognize, prepare, or administer educational courses required for obtaining an original certificate of registration and continuing education courses.
- (j) Requires a certificate holder to perform a review and inspection function of the commission in a competent and professional manner and in compliance with standards and specifications adopted by the commission under this article, and rules adopted by the commissioner under this article.
- (k) Prohibits a certificate holder from engaging in false or misleading advertising in connection with the performance of review or inspection functions of the commission.

SECTION 3. Amends Section 6, Article 9102, V.T.C.S., to require the commission to set and charge, in accordance with Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code, rather than Article 9100, V.T.C.S., fees for performing its functions under this article. Provides that the owner of a building or facility is responsible for paying any fee charged by the commission for performing a function related to the building or facility under this article. Deletes existing text pertaining to fees and the department. Authorizes the commission to charge fees for certain specific functions. Deletes existing text pertaining to fees.

SECTION 4. (a) Effective date: upon passage or September 1, 2001.

- (b) Requires the commissioner of licensing and regulation to adopt rules under Section 5A, Article 9102, V.T.C.S., as added by this Act, not later than January 1, 2002.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Differs from the original by removing proposed new language relating to buildings or facilities leased by the state. Removes proposed new language pertaining to applicability. Amends provisions relating to the performance of an inspection of buildings or facilities leased by the state to include a person who holds a certificate of registration. Amends the inspection requirement of buildings or facilities leased by the state to require that the inspection be performed before the building or facility is occupied in whole or in part by the state. Makes conforming changes.

SECTION 2. Differs from the original by deleting previously proposed Subsection (j) relating to the review and inspection of buildings or facilities leased by the state. Redesignates previously proposed Subsections (k) - (l) as Subsections (j)-(k).

SECTION 3. No change.

SECTION 4. Differs from the original by requiring the commissioner of licensing and regulation to adopt rules under Section 5A, Article 9102, V.T.C.S., as added by this Act, no later than January 1, 2002.