

- SUBJECT:** Certification to inspect buildings for accessibility compliance
- COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment
- VOTE:** 6 ayes — Wilson, Yarbrough, Haggerty, D. Jones, A. Reyna, Wise
0 nays
3 absent — Flores, Goolsby, Moreno
- SENATE VOTE:** On final passage, March 1 — 29-0
- WITNESSES:** (*On House companion bill, HB 199:*)
For — Glenn Gadbois, Texas Citizen Fund; David Lancaster, Texas Society of Architects; John Torkelson, Independent Contract Provider Association

Against — None

On — Dennis Borel, Coalition of Texans with Disabilities; William H. Kuntz, Jr., Texas Department of Licensing and Regulation; *Registered but did not testify:* George Ferrie, Texas Department of Licensing and Regulation
- BACKGROUND:** Art. 9102, V.T.C.S. requires new or renovated buildings with construction costs of \$50,000 or more to comply with accessibility standards for people with disabilities set by the Texas Department of Licensing and Regulation (TDLR) on the basis of the federal Americans with Disabilities Act. To ensure compliance, TDLR reviews plans for these buildings and inspects them after construction is complete. The department may contract with other state agencies, political subdivisions, nonprofit organizations, and private independent contractors to conduct reviews and inspections for facilities that are not leased by the state or a political subdivision.
- DIGEST:** SB 484 would allow TDLR to issue certification to review or inspect new or renovated buildings for compliance with disability accessibility standards. To be certified, a person would have to pass an examination administered by TDLR and meet other criteria set by the department. TDLR could require

certificate holders to attend continuing education and could recognize, prepare, or administer educational courses required to obtain or renew a certificate. The department could charge fees for these courses.

TDLR could contract with state agencies and political subdivisions to inspect any facility, including those leased by the state or a political subdivision. The owner of each building covered by art. 9102 would be responsible for having the building inspected.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001. The TDLR commissioner would have to adopt rules relating to certification not later than January 1, 2002.

**SUPPORTERS
SAY:**

SB 484 would make it easier for TDLR to ensure that new and renovated buildings comply with accessibility standards by allowing the department to certify people to conduct the required reviews and inspections. TDLR has not had enough staff to conduct time-intensive inspections while enforcing inspection requirements against more than 16,000 building owners who have not sent in the fee for inspection. Once TDLR is able to collect these fees, inspecting all these buildings would take about two or three years. Allowing TDLR to certify people to review and inspect buildings for compliance would enable the department to use more of its employee time to enforce inspection requirements against building owners who have not requested an inspection by paying the inspection fee.

Allowing TDLR to certify, rather than contract with, inspectors also would improve the quality of inspections. Currently, if TDLR is unsatisfied with an inspector's work, the department's only recourse is to cancel the inspector's contract. Inspectors certified and regulated by TDLR, however, would be subject to the general provisions of Occupations Code, chapter 51, which allows TDLR to impose administrative penalties, including reprimands or financial penalties, against any person regulated. The threat of penalties would ensure that the certified inspectors would conduct inspections conscientiously. The bill also would ensure the quality of inspectors by requiring them to take exams to become certified and by allowing TDLR to create additional requirements. TDLR has indicated that it will require a high level of qualifications to ensure high-quality inspections.

OPPONENTS
SAY:

Although building owners should be responsible for having their buildings inspected, SB 484 could make owners who comply with all regulations liable if their buildings were not inspected within a year because of backlogs at TDLR. The bill should be amended to ensure that building owners are not held liable if an inspection is not conducted through no fault of their own.

OTHER
OPPONENTS
SAY:

SB 484 contains no criteria to ensure that people certified by TDLR would have the necessary qualifications to carry out inspections. The bill should set out specific minimum qualifications rather than leave this to TDLR's discretion.