

BILL ANALYSIS

Senate Research Center

H.B. 3547
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Economic Development
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Engrossed

DIGEST

Current law requires all elevators and escalators to be inspected annually and to comply with American Society of Mechanical Engineers Safety Code (ASME) safety standards. There are concerns that some owners are disregarding the statutes and not performing annual inspections; building owners are unable to get advance approval for an elevator or escalator from the Texas Department of Licensing and Regulation (department); some provisions of the current statute are unclear; some owners are abusing the right to obtain a delay for compliance; the statute's provision for waiver of compliance is too broad; the department lacks adequate procedures to compel compliance; the statutory cap for inspector fees is inequitable; and a few cities have their own elevator and inspection standards. H.B. 3547 amends current elevator and escalator safety regulations relating to the composition and compensation of the elevator advisory board (board), safety standards, and exemptions from safety standards noncompliance. This bill requires the commissioner of licensing and regulation (commissioner) to adopt rules relating to the review of elevator building plans, fee schedules, and the reinspection and recertification of elevators and escalators. This bill requires the commissioner to appoint qualified elevator inspectors and sets forth inspectors' duties. In addition, H.B.3547 provides the Texas Commission on Licensing and Regulation certain remedies if it is determined that an elevator poses imminent and significant danger to its passengers.

PURPOSE

As proposed, H.B. 3547 relates to elevators, escalators, and related equipment.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of licensing and regulation in SECTION 5 (Section 754.015, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 754.011, Health and Safety Code, as follows:

Sec. 754.011. DEFINITIONS. Defines "acceptance inspection" and "alteration" and redefines "ASME Code A17.3" and "related equipment." Redesignates existing Subsections (2)-(8) to Subsections (4)-(10).

SECTION 2. Amends Section 754.0111, Health and Safety Code, to provide that this subchapter does not apply to an elevator that serves only a single dwelling. Provides that until January 1, 2010, this subchapter does not apply to an elevator, escalator, or related equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

SECTION 3. Amends Sections 754.012(a) and (e), Health and Safety Code, to provide that the elevator advisory board is composed of 12 members, rather than nine members. Provides that four of the members, rather than one member, are public members appointed by the commissioner of licensing and regulation (commissioner). Deletes language entitling a board member to reimbursement for travel and other necessary expenses incurred in performing duties under this subchapter.

SECTION 4. Amends Sections 754.014(b), (c), (e), (h), (i), and (k), Health and Safety Code, to prohibit the standards adopted by the commissioner from containing requirements in addition to the requirements in the 1994 ASME Code A17.3 or from requiring sprinklers in an elevator hoistway, pit, or machine room. Requires the standards to allow alteration of existing elevators, escalators, or related equipment as long as the alteration does not diminish the level of safety below that which was required for the elevators,

escalators, or related equipment under this subchapter at the time of the alteration. Provides that standards adopted by the commissioner must require elevators, escalators, and related equipment to comply with the installation requirements of the following, whichever is the least restrictive: (1) the ASME Code A17.1 that was in effect on the date of installation of the elevators, escalators, and related equipment; or (2) an applicable municipal ordinance in effect before September 1, 1993, governing the installation, alteration, inspection, and certification, rather than an applicable municipal ordinance governing of elevators, escalators, and related equipment that was in effect on the date of installation. Prohibits the granting of a delay if it allows an imminent and significant danger to continue or if it allows compliance beyond the specified deadline for the compliance contained in an earlier delay granted by the commissioner, unless the commissioner determines there is good cause for the further delay. Requires the commissioner to grant a waiver of compliance with an applicable ASME Code A17.1 provision if the noncompliance resulted from compliance with a municipal elevator or escalator construction code at the time of original construction and the noncompliance poses no imminent and significant danger. Requires, rather than authorizes, the commissioner to grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in specified buildings. Provides that this subchapter does not apply to an elevator, escalator, or related equipment in an industrial facility, grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited principally to employees who are covered under workers' compensation insurance carried by the owner or tenant of the building or structure, rather than employees of or working in that facility or structure. Provides that for purposes of this section, the date of alteration of an elevator, an escalator, or related equipment is the date that the owner of the real property entered into a contract for the installation or alteration of an elevator, an escalator, or related equipment. Deletes language providing that for purposes of this section, the date of installation is the date that the owner of the real property entered into a contract for the purchase of the elevators, escalators, or related equipment. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 754.015, Health and Safety Code, to require the commissioner, by rule, to provide for the review of plans submitted by building owners to the Texas Commission of Licensing and Regulation (commission) for the installation or alteration of elevators or escalators; a fee schedule to charge for acceptance inspections and plan reviews performed by commission staff and requested by building owners; requesting municipal building inspection departments to notify applicants for building permits of the availability of commission staff for reviewing elevator plans and performing acceptance inspections; and notifying building owners, architects, and other building industry professionals regarding the necessity of annual inspections of elevators, escalators, and related equipment and the availability of commission staff for reviewing elevator and escalator plans and performing acceptance inspections, in addition to other requirements. Prohibits the commissioner by rule from requiring that inspection be made more often than once per year of elevators, escalators, and related equipment, except as provided by Subsection (c); or that building owners submit to the commission proposed plans for the installation or alteration of elevators. Deletes language prohibiting the commissioner by rule from requiring inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019 (Duties of Real Property Owners). Authorizes the commissioner, by rule, to allow the chief inspector of elevators to require a reinspection and recertification of an elevator or escalator in the same year if an annual certification report filed with the commission indicates a condition that continues to exist according to the report and continues to be a significant threat to passenger safety in the reasonable judgment of the chief inspector.

SECTION 6. Amends Section 754.016(b), Health and Safety Code, to require an inspector to date and sign an inspection report and to issue the report to the building owner no later than the 10th business day after the date of inspection.

SECTION 7. Amends Sections 754.017(a) and (c), Health and Safety Code, to provide that an inspector must attend an annual seminar provided by the commission, in addition to being registered with the department and being certified as an ASME-QEI-1 inspector by an organization accredited by the American Society of Mechanical Engineers. Authorizes the commission, rather than the commissioner, to charge a \$25 fee, rather than a \$15 fee, to certified inspectors for registering with the department.

SECTION 8. Amends Section 754.0171, Health and Safety Code, to delete language prohibiting a person inspecting an elevator, escalator, or related equipment under this subchapter from charging for inspection more than \$65 per elevator cab or per escalator. Makes a nonsubstantive change. Redesignates existing Subsection (b) to Subsection (a).

SECTION 9. Amends Subchapter B, Chapter 754, Health and Safety Code, by adding Section 754.0172, as follows:

Sec. 754.0172. APPOINTMENT OF PERSONNEL. Requires the commissioner to appoint a chief of elevator inspections to administer this subchapter. Provides that the chief inspector must be a resident of this state and a citizen of the United States; have at least five years' experience in the construction, installation, inspection, operation, maintenance, and repair of elevators; not have a commercial interest in the manufacture, maintenance, repair, or sale of elevators, escalators, or related equipment; and possess an ASME-QEI-1 certification or obtain the certification within six months after becoming chief inspector. Requires the commissioner to appoint ASME-QEI-1 certified elevator inspectors to serve as deputy inspectors. Requires deputy inspectors to be responsible for accident investigations, plan reviews, and acceptance inspections requested by building owners and to perform other duties assigned by the chief inspector of elevators consistent with this subchapter.

SECTION 10. Amends Section 754.018, Health and Safety Code, as follows:

Sec. 754.018. POWERS OF MUNICIPALITIES. Provides that this subchapter does not apply to elevators, escalators, and related equipment in a municipality that operates a program for the installation, alteration, inspection, or certification of elevators, escalators, or related equipment if the municipality's standards of installation, alteration, inspection, and certification are equivalent to, rather than no less stringent than, those contained in this subchapter, subject to Subsections (b) and (c) and Section 754.014(h). Prohibits a municipality from requiring sprinklers in an elevator hoistway, pit, or machine room. Prohibits a municipality from operating a program for installation, alteration, inspection, or certification of elevators, escalators, and related equipment after January 1, 2010. Authorizes a municipality to elect to cease operation of a program for installation, alteration, inspection, or certification sooner than January 1, 2010. Provides that this section does not prevent a municipality from enforcing building codes that do not exceed or conflict with applicable provisions of ASME Code A17.1 and 1994ASME Code A17.3.

SECTION 11. Amends Section 754.019(a), Health and Safety Code, to require the owner of real property on which an elevator, an escalator, or related equipment covered by this subchapter is located to display a copy of the certificate of compliance, rather than the certificate itself, in specified areas.

SECTION 12. Amends Section 754.021, Health and Safety Code, to require the commissioner, rather than authorize the commissioner, to employ personnel who are necessary to enforce this subchapter and who are required to be supervised by the chief inspector of elevators.

SECTION 13. Amends Section 754.023, Health and Safety Code, by amending Subsection (a) and adding Subsections (f)-(i), to authorize an employee of the commission, rather than the commission, if there is good reason for a chief of elevator inspections to believe that an elevator, an escalator, or related equipment on real property poses an imminent and significant danger, to enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the elevator, escalator, or related equipment or investigate the danger or accident at no cost to the owner. Authorizes an employee of the commission to disconnect power to or lockout an elevator or issue a written directive to a building owner or manager to disconnect power to or lockout an elevator in specified circumstances. Authorizes an employee of the commission to disconnect power to or lockout an elevator or issue a written directive to the building owner or manager to perform the disconnection of power or lockout in specified circumstances. Prohibits the reconnection of power to an elevator and the unlocking of an elevator unless a registered elevator inspector, an elevator service company, or a commission employee has given written verification to the commission that the imminent and significant danger has been removed by repair or replacement and the building owner agrees in writing to pay, not later than the 30th day after the date on which the power is reconnected or the elevator is unlocked, any penalty imposed under this subchapter and to reimburse the commission for any expenses incurred by the commission relating to the disconnection of power to or lockout of the elevator. Prohibits the reconnection of power to an elevator and the unlocking of an elevator unless the building owner pays any penalty imposed under this subchapter and reimburses the commission for any expenses incurred by the commission relating to the disconnection of power to or lockout of the elevator if a disconnection of power to or lockout of an elevator occurs under Subsection (g).

SECTION 14. Repealer: Subchapter A, Chapter 754, Health and Safety Code (Elevators, Escalators, and

Related Equipment).

SECTION 15. (a) Effective date: September 1, 1999. Makes application of this Act prospective. Requires the commissioner of licensing and regulation to appoint three additional public members to the elevator advisory board as required by Section 754.012, Health and Safety Code (Elevator Advisory Board), as amended by this Act, not later than January 1, 1999.

SECTION 16. Emergency clause.