

## **BILL ANALYSIS**

C.S.S.B. 540

By: Carona

Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to interested parties, recent events, including the announcement that the American Society of Mechanical Engineers is discontinuing its qualified elevator inspector accreditation program, prompted a review of the state's regulatory program concerning elevators, escalators, and related equipment, which resulted in a variety of suggested changes from interested parties. C.S.S.B. 540 seeks to amend the applicable law relating to the regulation of elevators, escalators, and related equipment to address certain issues and to establish the certification of inspectors in accordance with Texas Commission of Licensing and Regulation rules.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 2, 3, 8, and 13 of this bill.

### **ANALYSIS**

C.S.S.B. 540 amends the Health and Safety Code to remove the requirement that a registered elevator inspector be certified as a QEI-1 inspector by an organization accredited by the American Society of Mechanical Engineers and instead to require that a registered inspector be certified as an inspector in accordance with the rules adopted by the Texas Commission of Licensing and Regulation. The bill requires the commission by rule to provide for the registration, including certification, of elevator inspectors, rather than registration of qualified inspectors, and clarifies that the general liability insurance the commission is required to provide for by rule as a condition of contractor registration is to be written by an insurer authorized to engage in the business of insurance in Texas or an eligible surplus lines insurer. The bill requires a registered inspector to comply with the continuing education requirements established by commission rule for registration renewal and removes a statutory limitation on the number of continuing education hours that an inspector may be required to attend. The bill prohibits a registered inspector from inspecting equipment if the inspector or inspector's employer has a financial or personal conflict of interest or the appearance of impropriety related to the inspection of that equipment.

C.S.S.B. 540 requires the commission, not later than January 1, 2014, to adopt rules implementing the bill's provisions and specifies that the bill's provisions apply only to an application submitted to the Texas Department of Licensing and Regulation on or after January 1, 2014, for an elevator inspector registration or for renewal of an elevator inspector registration with an expiration date on or after January 1, 2014. The bill makes a conforming change to a provision relating to the composition of the elevator advisory board and specifies that the provision applies only to a member appointed to the board on or after January 1, 2014.

### **EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.S.B. 540 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subsection (a), Section 754.012, Health and Safety Code, is amended.	SECTION 1. Same as engrossed version except for recitation.
SECTION 2. Subsections (a), (b), (c), (e), and (f), Section 754.0141, Health and Safety Code, are amended.	SECTION 2. Same as engrossed version except for recitation.
SECTION 3. Subsections (a), (b), and (d), Section 754.015, Health and Safety Code, are amended to read as follows: (a) The commission by rule shall provide for: (1) an annual inspection and certification of the equipment covered by standards adopted under this subchapter; (2) enforcement of those standards; (3) <u>registration, including certification, of elevator [qualified] inspectors [and contractors];</u> (4) <u>registration of contractors;</u> (5) the form of inspection documents, contractor reports, and certificates of compliance; (6) <del>[(5)]</del> notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment; (7) <del>[(6)]</del> approval of continuing education programs for registered <u>elevator [QEI+ eertified]</u> inspectors; (8) <del>[(7)]</del> standards of conduct for individuals who are registered under this subchapter; (9) <del>[(8)]</del> general liability insurance as a condition of contractor registration with coverage of not less than:  (A) \$1 million for each single occurrence of bodily injury or death; and (B) \$500,000 for each single occurrence of property damage; (10) <del>[(9)]</del> the submission and review of plans for the installation or alteration of equipment; and	SECTION 3. Sections 754.015(a), (b), and (d), Health and Safety Code, are amended to read as follows: (a) The commission by rule shall provide for: (1) an annual inspection and certification of the equipment covered by standards adopted under this subchapter; (2) enforcement of those standards; (3) <u>registration, including certification, of elevator [qualified] inspectors [and contractors];</u> (4) <u>registration of contractors;</u> (5) the form of inspection documents, contractor reports, and certificates of compliance; (6) <del>[(5)]</del> notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment; (7) <del>[(6)]</del> approval of continuing education programs for registered <u>elevator [QEI+ eertified]</u> inspectors; (8) <del>[(7)]</del> standards of conduct for individuals who are registered under this subchapter; (9) <del>[(8)]</del> general liability insurance <u>written by an insurer authorized to engage in the business of insurance in this state or an eligible surplus lines insurer, as defined by Section 981.002, Insurance Code,</u> as a condition of contractor registration with coverage of not less than: (A) \$1 million for each single occurrence of bodily injury or death; and (B) \$500,000 for each single occurrence of property damage; (10) <del>[(9)]</del> the submission and review of plans for the installation or alteration of equipment; and

(11) ~~[(10)]~~ continuing education requirements for renewal of contractor registration.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more often than every 12 months, except as provided by Subsection (c); or

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter~~[-or~~

~~[(3) prohibit a QEI 1 certified inspector who is registered with the department from inspecting equipment].~~

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an elevator inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) submitting for review plans for the installation or alteration of equipment;

(6) reviewing and approving continuing education providers and courses for renewal of elevator inspector and contractor registrations ~~[registration]~~;

(7) applying for a waiver, variance, or delay; and

(8) attending a continuing education program sponsored by the department for registered elevator ~~[QEI-1]~~ inspectors.

SECTION 4. Subsections (b) and (c), Section 754.016, Health and Safety Code, are amended.

SECTION 5. The heading to Section 754.017, Health and Safety Code, is amended.

SECTION 6. Subsections (a), (b), and (d), Section 754.017, Health and Safety Code, are amended.

SECTION 7. The heading to Section 754.0174, Health and Safety Code, is amended.

(11) ~~[(10)]~~ continuing education requirements for renewal of contractor registration.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more often than every 12 months, except as provided by Subsection (c); or

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter~~[-or~~

~~[(3) prohibit a QEI 1 certified inspector who is registered with the department from inspecting equipment].~~

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an elevator inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) submitting for review plans for the installation or alteration of equipment;

(6) reviewing and approving continuing education providers and courses for renewal of elevator inspector and contractor registrations ~~[registration]~~;

(7) applying for a waiver, variance, or delay; and

(8) attending a continuing education program sponsored by the department for registered elevator ~~[QEI-1]~~ inspectors.

SECTION 4. Same as engrossed version except for recitation.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version except for recitation.

SECTION 7. Same as engrossed version.

SECTION 8. Section 754.0174, Health and Safety Code, is amended.

SECTION 9. Subsections (a) and (b), Section 754.019, Health and Safety Code, are amended.

SECTION 10. Section 754.020, Health and Safety Code, is amended.

SECTION 11. Section 754.021, Health and Safety Code, is amended.

SECTION 12. Subsection (k), Section 754.023, Health and Safety Code, is amended.

SECTION 13. (a) The Texas Commission of Licensing and Regulation shall adopt the rules necessary to implement Chapter 754, Health and Safety Code, as amended by this Act, not later than January 1, 2014.

(b) The changes in law made by this Act apply only to an application submitted to the Texas Department of Licensing and Regulation on or after January 1, 2014, for an elevator inspector registration or for renewal of an elevator inspector registration with an expiration date on or after January 1, 2014. An application for an elevator inspector registration or for renewal of an elevator inspector registration with an expiration date on or after January 1, 2014, that is submitted before January 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Subsection (a), Section 754.012, Health and Safety Code, as amended by this Act, applies only to a member appointed to the elevator advisory board on or after January 1, 2014.

SECTION 14. This Act takes effect September 1, 2013.

SECTION 8. Same as engrossed version.

SECTION 9. Same as engrossed version except for recitation.

SECTION 10. Same as engrossed version.

SECTION 11. Same as engrossed version.

SECTION 12. Same as engrossed version except for recitation.

SECTION 13. Same as engrossed version.

SECTION 14. Same as engrossed version.