

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 540  
By: Carona  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Elevator inspectors are an integral part of the regulatory framework that the state has implemented to protect public safety, conducting elevator, escalator, and related equipment inspections that building owners are required to obtain on an annual basis.

Under current law, elevator inspectors must meet certain qualifications in order to conduct their work in Texas. Specifically, inspectors are required to register with the Texas Department of Licensing and Regulation (TDLR), attend approved educational programs, be certified by an organization accredited by the American Society of Mechanical Engineers (ASME), and pay all applicable fees.

Currently, ASME certifies organizations that endorse inspectors in accordance with ASME's Qualified Elevator Inspector (QEI) standards. However, ASME has announced that it is discontinuing its QEI accreditation program and that all accreditations will be withdrawn as of January 1, 2014. Due to this change, the state will need to provide an alternative method to ensure that elevator inspectors are qualified to operate in Texas.

S.B. 540 removes all references to ASME's QEI standards and changes the qualification requirements of registered elevator inspectors so that, along with the requirements in current law, elevator inspectors must be certified in accordance with rules adopted by the Texas Commission of Licensing and Regulation (as opposed to an organization accredited by ASME) and comply with continuing education requirements in order to perform inspections in the state.

As proposed, S.B. 540 amends current law relating to the regulation, registration, and certification of inspectors for elevators, escalators, and related equipment.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation (TCLR) is modified in SECTION 2 (Section 754.0141, Health and Safety Code), SECTION 3 (Section 754.015, Health and Safety Code), and SECTION 8 (Section 754.0174, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to TCLR in SECTION 13 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 754.012(a), Health and Safety Code, to provide that the elevator advisory board is composed of nine certain members, including a representative of the insurance industry or a registered elevator inspector, rather than a certified elevator inspector.

SECTION 2. Amends Sections 754.0141(a), (b), (c), (e), and (f), Health and Safety Code, as follows:

- (a) Requires that elevators, chairlifts, or platform lifts installed in a single family dwelling on or after January 1, 2004, comply with certain codes and be inspected by a registered elevator inspector, rather than a QEI-1 certified inspector, after the installation is complete.

(b) Requires the Texas Commission of Licensing and Regulation (TCLR) to adopt rules containing minimum safety standards that must be used by registered elevator inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings, rather than requiring TCLR, before January 1, 2004, to adopt rules containing minimum safety standards that must be used by QEI-1 certified inspectors when inspecting certain equipment. Makes a conforming change.

(c) Authorizes a municipality to withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift until the owner provides a copy of the inspection report, rather than the QEI-1 inspection report, to the municipality.

(e)-(f) Makes conforming changes.

SECTION 3. Amends Sections 754.015(a), (b), and (d), Health and Safety Code, as follows:

(a) Requires TCLR by rule to provide for, among other certain provisions, registration, including certification, of elevator inspectors, rather than registration of qualified inspectors and contractors; and registration of contractors. Makes conforming and nonsubstantive changes.

(b) Deletes existing text prohibiting TCLR by rule from prohibiting a QEI-1 certified inspector who is registered with the Texas Department of Licensing and Regulation (TDLR) from inspecting equipment.

(d) Authorizes the executive director of TDLR (executive director) to charge a reasonable fee as set by TCLR for certain processes, including reviewing and approving continuing education providers and courses for renewal of elevator inspector and contractor registrations, rather than reviewing and approving continuing education providers and courses for renewal of contractor registration. Makes conforming changes.

SECTION 4. Amends Sections 754.016(b) and (c), Health and Safety Code, as follows:

(b) Requires a registered elevator inspector to date and sign an inspection report and to issue the report to the building owner not later than the 10th calendar day after the date of inspection.

(c) Requires that the certificate of compliance required to be signed and dated by the executive director and issued to the building owner state certain information, including that the equipment has been inspected by a registered elevator inspector, rather than that the equipment has been inspected by a certified inspector, and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director and stated in the certificate.

SECTION 5. Amends the heading to Section 754.017, Health and Safety Code, to read as follows:

Sec. 754.017. REGISTERED ELEVATOR INSPECTORS.

SECTION 6. Amends Sections 754.017(a), (b), and (d), Health and Safety Code, as follows:

(a) Requires an individual, in order to inspect equipment, to comply with certain criteria, including to be certified as an inspector in accordance with the rules adopted by TCLR, rather than to be certified as a QEI-1 inspector by an organization accredited by the American Society of Mechanical Engineers; comply with the continuing education requirements established by TCLR rule for registration renewal; and pay all applicable fees.

(b) Provides that a person assisting a registered elevator inspector, rather than a certified inspector, and working under the direct, on-site supervision of the inspector is not required to be registered, rather than is not required to be certified.

(d) Prohibits a registered elevator inspector from inspecting equipment if the inspector or the inspector's employer has a financial or personal conflict of interest or the appearance of impropriety related to the inspection of that equipment. Deletes existing text prohibiting a certified inspector from being required to attend more than seven hours of continuing education during each licensing period.

SECTION 7. Amends the heading to Section 754.0174, Health and Safety Code, to read as follows:

Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF ELEVATOR INSPECTOR AND CONTRACTOR REGISTRATIONS.

SECTION 8. Amends Section 754.0174, Health and Safety Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires each registered elevator inspector to complete continuing education requirements set by TCLR rule before the inspector may renew the inspector's registration.

(b) Requires a provider of continuing education under this section to comply with rules adopted by TCLR relating to continuing education for a registered elevator inspector or designated responsible party, as applicable, in addition to registering with TDLR.

SECTION 9. Amends Sections 754.019(a) and (b), Health and Safety Code, as follows:

(a) Requires the owner of real property on which equipment covered by this subchapter (Inspection, Certification, and Registration) is located to complete certain actions, including having the equipment inspected annually by a registered elevator inspector, rather than by a certified inspector.

(b) Requires the owner, when an inspection report is filed, to submit to the executive director, as applicable, verification that any deficiencies in the registered elevator inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into or any application for delay or waiver of an applicable standard.

SECTION 10. Amends Section 754.020, Health and Safety Code, to require the chief elevator inspector to possess the certification, rather than a QEI-1 certification, or obtain the certification required under Section 754.017 within six months after becoming chief elevator inspector, in addition to prohibiting the chief elevator inspector from having a financial or commercial interest in the manufacture, maintenance, repair, inspection, installation, or sale of equipment.

SECTION 11. Amends Section 754.021, Health and Safety Code, as follows:

Sec. 754.021. New heading: LIST OF REGISTERED ELEVATOR INSPECTORS AND CONTRACTORS. Requires the executive director to compile a list of elevator inspectors, rather than certified inspectors, and contractors who are registered with TDLR, among other actions required of the executive director.

SECTION 12. Amends Section 754.023(k), Health and Safety Code, to authorize the building owner or manager, if an emergency order to disconnect power or lock out equipment is issued, to have the power reconnected or the equipment unlocked only if a registered elevator inspector, a registered contractor, or a TDLR representative has filed a written form with TDLR verifying the imminent and significant danger has been removed by repair, replacement, or other means, among other requirements relating to the building owner.

SECTION 13. (a) Requires TCLR to adopt the rules necessary to implement Chapter 754, Health and Safety Code, as amended by this Act, not later than January 1, 2014.

(b) Makes application of this Act prospective to January 1, 2014.

(c) Makes application of Section 754.012(a), Health and Safety Code, as amended by this Act, prospective to January 1, 2014.

SECTION 14. Effective date: September 1, 2013.