



### Synopsis of Bill

Senate Bill 280 requires the Construction Industries Division of the Regulation and Licensing Department to set standards and licensing requirements for elevator mechanics, contractors and inspectors. The bill also provides for registration, permits and certificates of operation and sets insurance and enforcement requirements. Effective January 1, 2012, the owner or lessee of every existing conveyance must register with the director of Construction Industries the type of conveyance, its rated load and speed, the name of the manufacturer, its location, the purpose for which it is used and any other information the director requires.

Senate Bill 280 would create the “Elevator Safety Act.” The act would have three operational sections:

1. Regulation of licensing of elevator contractor, mechanics and inspectors
  - Installation of elevators would require licensure under the act
  - Licensees would be required to prove compliance with continuing education requirements for license renewal every two years
  - Temporary licenses could be issued in times of emergency
  - Licenses could be revoked or suspended for violations of the act
  - Licensees would be required to carry \$1,000,000.00 general liability insurance
  - The licensing program would be administered by the Director of CID
2. Regulation of the installation of elevators
  - Installation of elevators would be required to meet state fire and building code requirements
  - Installation would require a permit
  - After installation the elevator would be certified as being in compliance with the act completed by the installing contractor and issued to the owner of the elevator. Some residential elevator devices are exempted.
  - Certificates of operation would be required to be renewed annually
  - These requirements would be enforced by CID
3. Regulation of the on-going operation of elevators
  - All existing elevators in the State would be required to be registered by January 1, 2012.
  - Operating elevators would be inspected and tested annually
  - Correction of violations would be the responsibility of the owner
  - Temporarily dormant conveyances must be put in safe running order and comply with the annual inspection requirements of the act.
  - The annual inspection and certification requirement of the act would be administered by CID

In addition SB 280 would require:

- The adoption of the American Society of Civil Engineers’ and the American Society of Mechanical Engineers’ Automated People Mover Standards.
- Creation and administration of a continuing education program and approval of trainers in existing and new provisions of “the rules of the [Construction Industries] Commission” and would required that the Director approve the training providers.

- Creation of a new and separate permitting process for elevator installation
- Creation of the Elevator Safety Fund to consist of permit and license fees and income and money otherwise accruing to the fund. The fund would be non-reverting.
- Investigation of allegations of violation of the act and the operation of dangerous conveyances.

The amendment also requires to commission to adopt the latest editions of related codes and standards within six months of their effective date.

The amendment requires the commission to hear an appeal and hold hearings and issue a decision on an appeal within thirty days of the submission of an appeal.

The amendment also requires the commission to establish fee schedules for licenses, permits, certificates and inspections. The fees must reflect the actual costs and expenses to carry out the provisions of the Elevator Safety Act.

### **FISCAL IMPLICATIONS**

CID estimates the first year start-up costs of the functions required by this bill to be approximately \$700 thousand. This estimate is based on the creation of an elevator bureau within CID to administer the act. It is estimated that one bureau chief, five inspectors and two administrative specialists would be needed. Please see the attached breakdown of salary and overhead costs for the first year and continuing annual costs of approximately \$700 thousand. The bill does not provide funding for these costs. CID's projected budget for 2011 cannot absorb these costs.

The license and permit fees may create an undue burden on the elevator industry. This industry is highly specialized and the number of licensees is expected to be small. Therefore, permit and licensing fees will have to be relatively high to cover the program costs. The certificate cost to the taxpayer owners will also be high due to the relatively few numbers of elevators in the state.

An appropriation may be required to adequately fund the enforcement of the act. The permit and licensing fees may not be adequate to cover CID's operating costs. The number of elevator companies currently operating in New Mexico has been estimated to be as low as 10. CID has requested data from representatives of the elevator industry on the number of elevator mechanics and the number of existing elevators currently operating in the state, but has not received that information.

CID's exam processes are currently outsourced to a private vendor. A new exam for purposes of the licensing requirements under this act would not be covered by the existing contract with that vendor.

### **SIGNIFICANT ISSUES**

The City of Albuquerque currently has an elevator inspection program. It is estimated that over 80% of the elevators in the state are within the Albuquerque city limits. This bill would apparently require the city to cease this operation and the State (CID) to assume it. This apparently implicates jurisdictional issues that should be addressed before the bill moves

forward.

According to RLD, the bill creates unnecessary parallel process already existing in the Construction Industries Licensing Act.

- The bill would create a parallel, duplicate licensing process for elevator contractors. This is contrary to the Construction Industries Licensing Act (CILA) which provides that it was the intent of the legislature to eliminate dual licensing and non-uniform classification and examination of closely related trades or occupational activities. The licensing of elevator contractors should be addressed in the existing CID licensing classification scheme and licensing processes. A parallel law requiring a separate process for licensing is duplicative, expensive and unnecessary.
- The bill would create an unnecessary parallel process for the discipline of elevator licensees.
- The bill would create a separate and unnecessary permitting system for elevator permits and inspections. These requirements could be addressed in the permitting system already in existence at CID.

According to RLD, the bill creates identical licensing requirements for contractors, mechanics and inspectors. There is no distinction between these types of licenses and results in scheme dual licensing.

The exceptions to testing as a requirement for licensure are not permitted for any other type of license issued by CID.

The act requires compliance with the state fire code. The state fire marshal, not CID adopts and enforces the fire code; therefore, the bill would create duplication of inspection on elevators.

### **OTHER SUBSTANTIVE ISSUES**

According to RLD, CID does not currently have any expertise with respect to elevator operations. The requirements for installation of elevators that are covered by the building, electrical and mechanical codes are already permitted and inspected. This bill would increase CID's authority beyond construction into operational and maintenance aspects for which there are no existing resources in the Division.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

CS/bym