

SENATE BILL 1608 (SB 1608)

Author: Senator Ellen Corbett (D-San Leandro)

Current Status: CHAPTERED – Governor Signed on September 29

Last Amendments: August 12, 2008

CALBO Position: With recent amendments; NEUTRAL

BILL SUMMARY

According to the author, “SB 1608 is a comprehensive reform measure intended to promote better compliance with the Americans with Disabilities Act (ADA) as well as the state's own equal access laws (Title 24). SB 1608 is a multi-faceted approach that attempts to address the problem of non-compliance in several ways, primarily by recognizing the value of and promoting voluntary compliance and prevention.”

In a nutshell, the commercial sector will have a process that they can voluntarily follow to have their buildings inspected by private and public entities for accessibility. Once the inspection is completed, the state will post the results of the inspection on the Division of the State Architect's website and issue a window placard to show good faith on the part of the business.

The prevailing theory behind the bill is that commercial property owners and businesses want to comply with the ADA and Title 24, but do not have the means to understand the provisions until they are in a courtroom being sued for violations. SB 1608 is meant to put a process and rewards system in place so that if a business wants to voluntarily show good faith by succumbing to a voluntary inspection and review, they can do so.

To ensure that the appropriate resources are available, licensed design professionals (Architects) and building department personnel will be required to attend Disabled Access specific Continuing Education courses and retain the appropriate personnel to serve as resources to building department patrons.

RECENT AMENDMENTS

On August 12, 2008, amendments were accepted by the author at CALBO's request which allowed CALBO to change positions from OPPOSE to NEUTRAL. A change in position was a requirement of CALBO before the amendments would be accepted by the author.

As opposed to requiring every local building department to certify “no less than one” inspector through the CASp program to conduct all plan checks and inspections, the bill now requires every local building department to “hire or retain” a CASp to provide consultation on access no later than July 1, 2010. The certified access specialist shall provide consultation to the local agency, permit applicants, and members of the public on compliance with state construction-related accessibility standards; however, building departments may change a fee to bill this time back at an hourly rate. The

work does not have to be physically completed by the CASp (i.e. – plan check), rather this person is to be available for consultation to those who do the work, as well as request the work. There is nothing to prohibit a local building department from placing a consulting firm with a CASp on retainer.

However, by January 1, 2014, local building departments will have to hire and retain “sufficient” numbers of CASp inspectors to conduct permitting and plan check services relative to new construction and tenant improvements. The author indicated that this would provide local building departments with time to evaluate the effects of the bill and to make amendments to the provisions if needed. Per the author’s legal counsel, “sufficient” is determined by the local agency. The author further related that the CASp did not need to review every application but should have a degree of oversight and monitoring for compliance with access standards.

SPECIFIC IMPACTS TO LOCAL BUILDING DEPARTMENTS

Continuing Education:

As part of the 45 hours of Continuing Education that are already required of local California building department personnel under AB 717 (1995) every three-years, 8 hours of disabled access specific Continuing Education will now be required of the same individuals. This continuing education “shall include information and practical guidance concerning requirements imposed by the Americans with Disabilities Act of 1990 Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state laws that govern access to public facilities, and federal and state regulations adopted pursuant to those laws. Continuing education provided pursuant to this subdivision shall be presented by trainers or educators with knowledge and expertise in these requirements.” [SB 1608, as amended August 12, 2008; Section 8 – Page 40]

“Continuing education may be provided by any organizations affiliated with the code enforcement profession, community colleges, or other providers of similar quality, as determined by the local agency.” [SB 1608, as amended August 12, 2008; Section 8 – Page 40]

By January 1, 2011, the newly formed California Commission on Disability Access will make a report to the State Legislature “whether existing training and continuing education requirements for personnel involved in designing, plan checking, building, or inspecting a structure are sufficient to provide the personnel with sufficient knowledge of the state and federal disability access laws and regulations.” [SB 1608, as amended August 12, 2008; Section 7 – Page 37]

CASp Retention:

“Commencing July 1, 2010, a local agency shall employ or retain at least one building inspector who is a certified access specialist. The certified access specialist shall provide consultation to the local agency, permit applicants, and members of the public on compliance with state construction-related accessibility standards with respect to inspections of a place of public accommodation that relate to permitting, plan checks, or new construction, including, but not limited to, inspections relating to tenant improvements that may impact access. If a local agency employs or retains two or

more certified access specialists to comply with this subdivision, at least one-half of the certified access specialists shall be building inspectors who are certified access specialists.” (SB 1608, as amended August 12, 2008; Section 3 – Pages 12-13)

“Commencing January 1, 2014, a local agency shall employ or retain a sufficient number of building inspectors who are certified access specialists to conduct permitting and plan check services to review for compliance with state construction-related accessibility standards by a place of public accommodation with respect to new construction, including, but not limited to, projects relating to tenant improvements that may impact access. If a local agency employs or retains two or more certified access specialists to comply with this subdivision, at least one-half of the certified access specialists shall be building inspectors who are certified access specialists.” (SB 1608, as amended August 12, 2008; Section 3 – Page 13)

“If a permit applicant or member of the public requests consultation from a certified access specialist, the local agency may charge an amount limited to a reasonable hourly rate, an estimate of which shall be provided upon request in advance of the consultation. A local government may additionally charge or increase permitting, plan check, or inspection fees to the extent necessary to offset the costs of complying with this subdivision. Any revenues generated from an hourly or other charge or fee increase under this subdivision shall be used solely to offset the costs incurred to comply with this subdivision.” (SB 1608, as amended August 12, 2008; Section 3 – Page 13)

Summary of Applicable Dates to Local California Building Departments

- By July 1, 2010, SB 1608 requires at least one building inspector be CASp certified in each local California building department to provide consulting service on state access codes. This service can be contracted with a code consultant.
- By January 1, 2014, SB 1608 requires a “sufficient” number, as defined by the local building department, of CASp building inspectors to conduct permitting and plan check services in each local California building department.

In either scenario, if more than one CASp is hired, at least half must be building inspectors.