

By: Davis of Harris

H.B. No. 2764

A BILL TO BE ENTITLED

AN ACT

relating to statutory authority for certain governmental entities to take certain actions to permit the legislature to reduce appropriations to those agencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Notwithstanding any statute to the contrary, the legislature, in its discretion, may determine the amount of each appropriation of state funds. The amounts required by statute for entities that receive state funds under Article II of the General Appropriations Act, 79th Legislature, Regular Session, 2005, may be reduced or eliminated in order to achieve a balanced budget.

(b) This section expires September 1, 2007.

SECTION 2. (a) This section applies to the following state agencies:

- (1) the Health and Human Services Commission; and
- (2) each agency over which the executive director of the Health and Human Services Commission has authority.

(b) Notwithstanding any other statute of this state, each state agency to which this section applies is authorized to reduce expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;

1 (2) extending the effective period of any license,
2 permit, or registration the agency grants or administers;

3 (3) entering into a contract with another governmental
4 entity or with a private vendor to carry out any of the agency's
5 duties;

6 (4) providing that any communication between the
7 agency and another person and any document required to be delivered
8 to or by the agency, including any application, notice, billing
9 statement, receipt, or certificate, may be made or delivered by
10 electronic mail or through the Internet; and

11 (5) adopting and collecting fees or charges to cover
12 any costs the agency incurs in performing its lawful functions.

13 SECTION 3. Section 39.903(e), Utilities Code, as amended by
14 Chapters 1394, 1451, and 1466, Acts of the 77th Legislature,
15 Regular Session, 2001, is reenacted and amended to read as follows:

16 (e) Money in the system benefit fund may be appropriated to
17 provide funding solely for the following ~~[regulatory]~~ purposes,
18 ~~[and]~~ in the following order of priority:

19 (1) the medical assistance program under Chapter 32,
20 Human Resources Code;

21 (2) customer education programs, administrative
22 expenses incurred by the commission in implementing and
23 administering this chapter, and expenses incurred by the office
24 under this chapter;

25 (3) programs to assist low-income electric customers
26 by providing the 10 percent reduced rate prescribed by Subsection
27 (h);

1 (4) programs to assist low-income electric customers
2 by providing the targeted energy efficiency programs described by
3 Subsection (f)(2); ~~[customer education programs, administrative~~
4 ~~expenses incurred by the commission in implementing and~~
5 ~~administering this chapter, and expenses incurred by the office~~
6 ~~under this chapter,]~~

7 (5) the school funding loss mechanism provided by
8 Section 39.901;

9 (6) programs to assist low-income electric customers
10 by providing the 20 percent reduced rate prescribed by Subsection
11 (h); and

12 (7) reimbursement to the commission and the Health and
13 Human Services Commission ~~[Texas Department of Human Services]~~ for
14 expenses incurred in the implementation and administration of an
15 integrated eligibility process created under Section 17.007 for
16 customer service discounts relating to retail electric service,
17 including outreach expenses the commission determines are
18 reasonable and necessary.

19 SECTION 4. Notwithstanding any statute to the contrary,
20 each health and human services agency, including any agency listed
21 in Section 531.001, Government Code, shall reduce its
22 expenditures, through a reduction in services provided or through a
23 reduction in other activities of the agency, as necessary to
24 operate within the amounts appropriated to the agency under Article
25 II of the General Appropriations Act. The comptroller of public
26 accounts or the executive commissioner of the Health and Human
27 Services Commission, as appropriate, may direct an agency to reduce

1 services or activities in accordance with this section.

2 SECTION 5. Notwithstanding Subchapter G, Chapter 403,
3 Government Code, the legislature may appropriate the available
4 earnings of any permanent fund established under that subchapter
5 and derived from tobacco proceeds to any strategy identified under
6 Article II of the General Appropriations Act. The comptroller
7 shall transfer funds from the permanent funds established under
8 Subchapter G, Chapter 403, Government Code, as necessary to
9 implement this section. This section expires September 1, 2007.

10 SECTION 6. (a) Section 103.007, Human Resources Code, is
11 amended by amending Subsection (c) and adding Subsection (d) to
12 read as follows:

13 (c) A person who operates a facility that is licensed under
14 this chapter must file an application for a renewal license not
15 later than the 45th day before the expiration date of the current
16 license on a form prescribed by the department together with a
17 renewal fee of \$25.

18 (d) An application for license renewal submitted to the
19 department later than the 45th day before the expiration date of the
20 current license must be accompanied by a late application fee in
21 accordance with department rules.

22 (b) The change in law made by this section applies only to an
23 application for license renewal that is submitted on or after
24 September 1, 2005.

25 SECTION 7. Chapter 103, Human Resources Code, is amended by
26 adding Section 103.0076 to read as follows:

27 Sec. 103.0076. FEASIBILITY INSPECTION. (a) The department

1 shall adopt a procedure under which a person who is considering
 2 applying for a license to operate an adult day-care facility may
 3 request an on-site compliance review by qualified department
 4 personnel of an existing unlicensed building for conformance with
 5 the department's licensing standards and the relevant occupancy
 6 chapters of the Life Safety Code of the National Fire Protection
 7 Association. In adopting the procedure, the department shall set
 8 reasonable deadlines by which the department must complete the
 9 feasibility inspection.

10 (b) Not later than the 30th day after the date a person
 11 requests a feasibility inspection under this section, the
 12 department shall complete the inspection and inform the person in
 13 writing of the results of the inspection. If the building complies
 14 with the department's licensing standards and the relevant Life
 15 Safety Code occupancy chapters, the department may not subsequently
 16 change the licensing standards and the relevant Life Safety Code
 17 occupancy chapters applicable to the project unless:

18 (1) the change is required by federal law; or
 19 (2) the person fails to complete the project within a
 20 reasonable time.

21 (c) The department may charge a reasonable fee for
 22 conducting a feasibility inspection under this section.

23 (d) A fee collected under this section shall be deposited in
 24 the general revenue fund and may be appropriated only to the
 25 department to conduct feasibility inspections under this section.

26 (e) The feasibility inspection procedure provided by this
 27 section does not include inspection of an existing unlicensed

1 building for conformance with the Texas Accessibility Standards as
2 administered and enforced by the Texas Department of Licensing and
3 Regulation.

4 SECTION 8. (a) Section 142.0105, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 142.0105. LICENSE RENEWAL. (a) A person who is
7 otherwise eligible to renew a license may renew an unexpired
8 license by submitting a completed application for renewal and
9 paying the required renewal fee to the department not later than the
10 45th day before the expiration date of the license. A person whose
11 license has expired may not engage in activities that require a
12 license [~~until the license has been renewed~~].

13 (b) An application for license renewal submitted to the
14 department later than the 45th day before the expiration date of a
15 current license is subject to an additional late application fee in
16 accordance with department rules [~~A person whose license has been~~
17 ~~expired for 90 days or less may renew the license by paying to the~~
18 ~~department a renewal fee that is equal to 1-1/2 times the normally~~
19 ~~required renewal fee~~].

20 (c) [~~A person whose license has been expired for more than~~
21 ~~90 days may obtain a new license by complying with the requirements~~
22 ~~and procedures for obtaining an original license.~~

23 [~~(d)~~] Not later than the 120th [~~60th~~] day before the date a
24 person's license is scheduled to expire, the department shall send
25 written notice of the impending expiration to the person at the
26 person's last known address according to the records of the
27 department.

(b) The change in law made by this section applies only to an application for license renewal that is submitted on or after September 1, 2005.

SECTION 9. Section 142.017, Health and Safety Code, is amended by amending Subsection (e) and adding Subsection (j) to read as follows:

(e) Except as provided in Subsection (j), the ~~[The]~~ department by rule shall provide the home and community support services agency with a reasonable period of time following the first day of a violation to correct the violation before assessing an administrative penalty if a plan of correction has been implemented.

(j) The department is not required to provide the home and support services agency with a reasonable period of time following the first day of a violation to correct the violation before assessing an administrative penalty if the department determines that the violation:

(1) results in serious harm to or death of a client;

(2) constitutes a serious threat to the health or safety of a client;

(3) substantially limits the agency's capacity to provide care;

(4) is a violation in which a person:

(A) makes a false statement, that the person knows or should know is false, of a material fact:

(i) on an application for issuance or renewal of a license or in an attachment to the application; or

1 (ii) with respect to a matter under
2 investigation by the department;

3 (B) refuses to allow a representative of the
4 department to inspect:

5 (i) a book, record, or file required to be
6 maintained by an agency; or

7 (ii) any portion of the premises of an
8 agency;

9 (C) wilfully interferes with the work of a
10 representative of the department or the enforcement of this
11 chapter;

12 (D) wilfully interferes with a representative of
13 the department preserving evidence of a violation of this chapter
14 or a rule, standard, or order adopted or license issued under this
15 chapter;

16 (E) fails to pay a penalty assessed by the
17 department under this chapter not later than the 10th day after the
18 date the assessment of the penalty becomes final; or

19 (F) fails to submit an acceptable plan of
20 correction not later than the 10th day after the date the person
21 receives a statement of licensing violations;

22 (5) involves the requirements for advance directives;
23 or

24 (6) involves the rights of the elderly under Chapter
25 102, Human Resources Code.

26 SECTION 10. Subchapter A, Chapter 142, Health and Safety
27 Code, is amended by adding Sections 142.0031 and 142.0032 to read as

1 follows:

2 Sec. 142.0031. EARLY COMPLIANCE REVIEW. (a) The
3 department by rule shall adopt a procedure under which a person
4 proposing to construct or modify a free-standing hospice may submit
5 building plans to the department for review for compliance with the
6 department's architectural requirements before beginning
7 construction or modification. In adopting the procedure, the
8 department shall set reasonable deadlines by which the department
9 must complete review of submitted plans.

10 (b) Not later than the 30th day after the date building
11 plans are submitted under this section, the department shall review
12 the plans for compliance with the department's architectural
13 requirements and inform the person in writing of the results of the
14 review. If the plans comply with the department's architectural
15 requirements, the department may not subsequently change the
16 architectural requirements applicable to the project unless:

17 (1) the change is required by federal law; or
18 (2) the person fails to complete the project within a
19 reasonable time.

20 (c) The department may charge a reasonable fee for
21 conducting a review under this section.

22 (d) A fee collected under this section shall be deposited in
23 the general revenue fund and may be appropriated only to the
24 department to conduct reviews under this section.

25 (e) The review procedure provided by this section does not
26 include review of building plans for compliance with the Texas
27 Accessibility Standards as administered and enforced by the Texas

1 Department of Licensing and Regulation.

2 Sec. 142.0032. FEASIBILITY INSPECTION. (a) The department
3 shall adopt a procedure under which a person who is considering
4 applying for a license to operate a free-standing hospice may
5 request an on-site compliance review by qualified department
6 personnel of an existing unlicensed building for conformance with
7 the department's licensing standards and the relevant occupancy
8 chapters of the Life Safety Code of the National Fire Protection
9 Association. In adopting the procedure, the department shall set
10 reasonable deadlines by which the department must complete the
11 feasibility inspection.

12 (b) Not later than the 30th day after the date a person
13 requests a feasibility inspection under this section, the
14 department shall complete the inspection and inform the person in
15 writing of the results of the inspection. If the building complies
16 with the department's licensing standards and the relevant Life
17 Safety Code occupancy chapters, the department may not subsequently
18 change the licensing standards and the relevant Life Safety Code
19 occupancy chapters applicable to the project unless:

20 (1) the change is required by federal law; or

21 (2) the person fails to complete the project within a
22 reasonable time.

23 (c) The department may charge a reasonable fee for
24 conducting a feasibility inspection under this section.

25 (d) A fee collected under this section shall be deposited in
26 the general revenue fund and may be appropriated only to the
27 department to conduct feasibility inspections under this section.

1 (e) The feasibility inspection procedure provided by this
2 section does not include inspection of an existing unlicensed
3 building for conformance with the Texas Accessibility Standards as
4 administered and enforced by the Texas Department of Licensing and
5 Regulation.

6 SECTION 11. Section 242.034, Health and Safety Code, is
7 amended by adding Subsection (i) to read as follows:

8 (i) An application for license renewal that is submitted to
9 the department later than the 45th day before the expiration date of
10 a current license is subject to an additional late application fee
11 in accordance with department rules.

12 SECTION 12. Subchapter B, Chapter 242, Health and Safety
13 Code, is amended by adding Section 242.0386 to read as follows:

14 Sec. 242.0386. FEASIBILITY INSPECTION. (a) The department
15 shall adopt a procedure under which a person who is considering
16 applying for a license to operate an institution may request an
17 on-site compliance review by qualified department personnel of an
18 existing unlicensed building for conformance with the department's
19 licensing standards and the relevant occupancy chapters of the Life
20 Safety Code of the National Fire Protection Association. In
21 adopting the procedure, the department shall set reasonable
22 deadlines by which the department must complete the feasibility
23 inspection.

24 (b) Not later than the 30th day after the date a person
25 requests a feasibility inspection under this section, the
26 department shall complete the inspection and inform the person in
27 writing of the results of the inspection. If the building complies

1 with the department's licensing standards and the relevant Life
2 Safety Code occupancy chapters, the department may not subsequently
3 change the licensing standards and the relevant Life Safety Code
4 occupancy chapters applicable to the project unless:

5 (1) the change is required by federal law; or

6 (2) the person fails to complete the project within a
7 reasonable time.

8 (c) The department may charge a reasonable fee for
9 conducting a feasibility inspection under this section.

10 (d) A fee collected under this section shall be deposited in
11 the general revenue fund and may be appropriated only to the
12 department to conduct feasibility inspections under this section.

13 (e) The feasibility inspection procedure provided by this
14 section does not include inspection of an existing unlicensed
15 building for conformance with the Texas Accessibility Standards as
16 administered and enforced by the Texas Department of Licensing and
17 Regulation.

18 SECTION 13. (a) Section 242.097, Health and Safety Code, is
19 amended by adding Subsection (e) to read as follows:

20 (e) A fee charged under Subsection (a) or (b) that is not
21 paid by a nursing or convalescent home on or before the due date is
22 late and the home must pay an additional fee in accordance with
23 department rules.

24 (b) The change in law made by this section applies only to a
25 fee that first becomes due on or after September 1, 2005.

26 SECTION 14. (a) Section 242.0975, Health and Safety Code,
27 is amended by adding Subsection (d) to read as follows:

1 (d) A fee charged under Subsection (a) or (b) that is not
2 paid by a facility on or before the due date is late and the facility
3 must pay an additional fee in accordance with department rules.

4 (b) The change in law made by this section applies only to a
5 fee that first becomes due on or after September 1, 2005.

6 SECTION 15. (a) Section 247.024, Health and Safety Code, is
7 amended by adding Subsection (e) to read as follows:

8 (e) An application for license renewal that is submitted to
9 the department later than the 45th day before the expiration date of
10 a current license is subject to a late application fee in accordance
11 with department rules.

12 (b) The change in law made by this section applies only to an
13 application for license renewal that is submitted on or after
14 September 1, 2005.

15 SECTION 16. Subchapter B, Chapter 247, Health and Safety
16 Code, is amended by adding Section 247.0262 to read as follows:

17 Sec. 247.0262. FEASIBILITY INSPECTION. (a) The department
18 shall adopt a procedure under which a person who is considering
19 applying for a license to operate an assisted living facility may
20 request an on-site compliance review by qualified department
21 personnel of:

22 (1) an existing unlicensed building for conformance
23 with the department's licensing standards and the relevant
24 occupancy chapters of the Life Safety Code of the National Fire
25 Protection Association; or

26 (2) an existing licensed facility that wants to change
27 its capacity or licensure type.

1 (b) In adopting the procedure under Subsection (a), the
2 department shall set reasonable deadlines by which the department
3 must complete a feasibility inspection.

4 (c) Not later than the 30th day after the date a person
5 requests a feasibility inspection under this section, the
6 department shall complete the inspection and inform the person in
7 writing of the results of the inspection. If the building complies
8 with the department's licensing standards and the relevant Life
9 Safety Code occupancy chapters, the department may not subsequently
10 change the licensing standards and the relevant Life Safety Code
11 occupancy chapters applicable to the project unless:

12 (1) the change is required by federal law; or

13 (2) the person fails to complete the project within a
14 reasonable time.

15 (d) The department may charge a reasonable fee for
16 conducting a feasibility inspection under this section.

17 (e) A fee collected under this section shall be deposited in
18 the general revenue fund and may be appropriated only to the
19 department to conduct reviews under this section.

20 (f) The feasibility inspection procedure provided by this
21 section does not include inspection of an existing unlicensed
22 building for conformance with the Texas Accessibility Standards as
23 administered and enforced by the Texas Department of Licensing and
24 Regulation.

25 SECTION 17. (a) Section 252.034, Health and Safety Code, is
26 amended by adding Subsection (f) to read as follows:

27 (f) An application for license renewal that is submitted to

1 the department later than the 45th day before the expiration date of
2 a current license is subject to a late application fee in accordance
3 with department rules.

4 (b) The change in law made by this section applies only to an
5 application for license renewal that is submitted on or after
6 September 1, 2005.

7 SECTION 18. Subchapter B, Chapter 252, Health and Safety
8 Code, is amended by adding Section 252.0376 to read as follows:

9 Sec. 252.0376. FEASIBILITY INSPECTION. (a) The department
10 shall adopt a procedure under which a person who is considering
11 applying for a license to operate a facility may request an on-site
12 compliance review by qualified department personnel of an existing
13 unlicensed building for conformance with the department's
14 licensing standards and the relevant occupancy chapters of the Life
15 Safety Code of the National Fire Protection Association. In
16 adopting the procedure, the department shall set reasonable
17 deadlines by which the department must complete the feasibility
18 inspection.

19 (b) Not later than the 30th day after the date a person
20 requests a feasibility inspection under this section, the
21 department shall complete the inspection and inform the person in
22 writing of the results of the inspection. If the building complies
23 with the department's licensing standards and the relevant Life
24 Safety Code occupancy chapters, the department may not subsequently
25 change the licensing standards and the relevant Life Safety Code
26 occupancy chapters applicable to the project unless:

27 (1) the change is required by federal law; or

1 (2) the person fails to complete the project within a
2 reasonable time.

3 (c) The department may charge a reasonable fee for
4 conducting a feasibility inspection under this section.

5 (d) A fee collected under this section shall be deposited in
6 the general revenue fund and may be appropriated only to the
7 department to conduct feasibility inspections under this section.

8 (e) The feasibility inspection procedure provided by this
9 section does not include inspection of an existing unlicensed
10 building for conformance with the Texas Accessibility Standards as
11 administered and enforced by the Texas Department of Licensing and
12 Regulation.

13 SECTION 19. (a) Section 252.095, Health and Safety Code, is
14 amended by adding Subsection (e) to read as follows:

15 (e) A fee charged under Subsection (a) that is not paid on or
16 before the due date is late and the facility must pay an additional
17 fee in accordance with department rules.

18 (b) The change in law made by this section applies only to a
19 fee charged under Section 252.095(a), Health and Safety Code, that
20 first becomes due on or after September 1, 2005.

21 SECTION 20. (a) Section 103.006(b), Human Resources Code,
22 is amended to read as follows:

23 (b) The license expires two years [~~one year~~] from the date
24 of its issuance.

25 (b) The change in law made by this section applies only to a
26 license issued under Section 103.006, Human Resources Code, as
27 amended by this section, on or after September 1, 2005. A license

1 issued under Section 103.006, Human Resources Code, before
2 September 1, 2005, expires as provided by the license and the law as
3 it existed immediately before September 1, 2005, and the former law
4 is continued for that purpose.

5 SECTION 21. (a) Section 142.006(b), Health and Safety
6 Code, is amended to read as follows:

7 (b) A license issued under this chapter expires two years
8 [~~one year~~] after the date of issuance. The department may issue an
9 initial license for a shorter term [~~of less than one year~~] to
10 conform expiration dates for a locality or an applicant. The
11 department, in accordance with department [~~board~~] rules, may issue
12 a temporary license to an applicant for an initial license.

13 (b) The change in law made by this section applies only to a
14 license issued under Section 142.006, Health and Safety Code, as
15 amended by this section, on or after September 1, 2005. A license
16 issued under Section 142.006, Health and Safety Code, before
17 September 1, 2005, expires as provided by the license and the law as
18 it existed immediately before September 1, 2005, and the former law
19 is continued for that purpose.

20 SECTION 22. (a) Section 142.010(a), Health and Safety
21 Code, is amended to read as follows:

22 (a) The department [~~board~~] shall set license fees for home
23 and community support services agencies in amounts that are
24 reasonable to meet the costs of administering this chapter, except
25 that the fees may not be less than \$600 [~~\$300~~] or more than \$2,000
26 [~~\$1,000~~] for a license to provide home health, hospice, or personal
27 assistance services.

1 (b) The change in law made by this section applies only to a
2 fee for a license issued under Chapter 142, Health and Safety Code,
3 as amended by this section, for a license issued on or after
4 September 1, 2005. The fee for a license issued before September 1,
5 2005, is the fee as set by rules adopted under that chapter as they
6 existed immediately before September 1, 2005, and the former law is
7 continued for that purpose.

8 SECTION 23. (a) Sections 247.023(a) and (b), Health and
9 Safety Code, are amended to read as follows:

10 (a) The department shall issue a license if, after
11 inspection and investigation, it finds that the applicant, the
12 assisted living facility, and all controlling persons with respect
13 to the applicant or facility meet the requirements of this chapter
14 and the standards adopted under this chapter. The license expires
15 on the second anniversary of the date of its issuance.

16 (b) To renew a license, the license holder must submit to
17 the department the [~~annual~~] license renewal fee.

18 (b) The change in law made by this section applies only to a
19 license issued under Section 247.023, Health and Safety Code, as
20 amended by this section, on or after September 1, 2005. A license
21 issued under Section 247.023, Health and Safety Code, before
22 September 1, 2005, expires as provided by the license and the law as
23 it existed immediately before September 1, 2005, and the former law
24 is continued for that purpose.

25 SECTION 24. (a) Section 247.024(a), Health and Safety Code,
26 is amended to read as follows:

27 (a) The department [~~board~~] shall set license fees imposed by

1 this chapter:

2 (1) on the basis of the number of beds in assisted
3 living facilities required to pay the fee; and

4 (2) in amounts reasonable and necessary to defray the
5 cost of administering this chapter, but not to exceed \$1,500
6 [~~\$750~~].

7 (b) The change in law made by this section applies only to a
8 fee for a license issued under Chapter 247, Health and Safety Code,
9 as amended by this section, for a license issued on or after
10 September 1, 2005. The fee for a license issued before September 1,
11 2005, is the fee as set by rules adopted under that chapter as they
12 existed immediately before September 1, 2005, and the former law is
13 continued for that purpose.

14 SECTION 25. Notwithstanding Section 2201.002, Government
15 Code, or any other law, the Texas capital trust fund may be used in
16 any manner necessary to support the infrastructure of facilities
17 for persons with mental retardation and mental illness.

18 SECTION 26. (a) The Department of Assistive and
19 Rehabilitative Services shall reduce expenditures by providing
20 through the vocational rehabilitation program operated by the
21 commission:

22 (1) transition planning services to prepare persons
23 with disabilities for a successful transition to employment; and

24 (2) extended ongoing support services to enable
25 individuals to achieve and maintain employment.

26 (b) Notwithstanding any other law, services described by
27 Subsections (a)(1) and (2) of this section may not be provided

1 separately from the vocational rehabilitation program operated by
2 the Department of Assistive and Rehabilitative Services.

3 SECTION 27. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2005.