

Suspending limitations on conference committee
jurisdiction, S.B. No. 344 (Carona/Davis of Harris)

By: Davis of Harris

H.R. No. 2588

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 80th Legislature, Regular Session, 2007, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 344 (additional exit
6 conference required following inspection, survey, or investigation
7 of, and temporary change of ownership licenses for, certain
8 facilities) to consider and take action on the following matter:

9 House Rule 13, Sections 9(a)(3) and (4), are suspended to
10 permit the committee to add the following:

11 SECTION 2. Section 242.0336, Health and Safety Code, is
12 amended by amending Subsections (a) and (c) through (g) and adding
13 Subsections (b-1) through (b-5), (c-1), and (d-1) to read as
14 follows:

15 (a) For purposes of this section, a temporary change of
16 ownership license is a temporary 90-day license issued to an
17 applicant who proposes to become the new operator of an institution
18 existing on the date the application is filed.

19 (b-1) Except as provided by Subsection (b-2), the
20 department may not issue a temporary change of ownership license
21 before the 31st day after the date the department has received both:

22 (1) the application for the license; and

23 (2) notification, in writing, of the intent of the
24 institution's existing license holder to transfer operation of the

1 institution to the applicant beginning on a date specified by the
2 applicant.

3 (b-2) Notwithstanding Section 242.0335, the department
4 shall establish criteria under which the department may waive the
5 30-day requirement or the notification requirement of Subsection
6 (b-1). The criteria may include the occurrence of forcible entry
7 and detainer, death, or divorce or other events that affect the
8 ownership of the institution by the existing license holder.

9 (b-3) After receipt of an application or written
10 notification described by Subsection (b-1), the department may
11 place a hold on payments to the existing license holder in an amount
12 not to exceed the average of the monthly vendor payments paid to the
13 facility, as determined by the department. The department shall
14 release funds to the previous license holder not later than the
15 120th day after the date on which the final reporting requirements
16 are met and any resulting informal reviews or formal appeals are
17 resolved. The department may reduce the amount of funds released to
18 the previous license holder by the amount owed to the department or
19 the Health and Human Services Commission under the previous license
20 holder's Medicaid contract or license.

21 (b-4) The executive commissioner of the Health and Human
22 Services Commission shall adopt rules for the department that
23 define a change of ownership. In adopting the rules, the executive
24 commissioner shall consider:

25 (1) the proportion of ownership interest that is being
26 transferred to another person;

27 (2) the addition or removal of a stockholder, partner,

1 owner, or other controlling person;

2 (3) the reorganization of the license holder into a
3 different type of business entity; and

4 (4) the death or incapacity of a stockholder, partner,
5 or owner.

6 (b-5) The executive commissioner may adopt rules for the
7 department that require a license holder to notify the department
8 of any change, including a change that is not a change of ownership,
9 as that term is defined by rules adopted under Subsection (b-4).
10 Nothing in this section prevents the department from acting under
11 Section 242.061 or any other provision of this chapter.

12 (c) The department shall issue or deny a temporary change of
13 ownership license not later than the 31st [30th] day after the date
14 of receipt of the completed application. The effective date of a
15 temporary change of ownership license issued under this section is
16 the date requested in the application unless:

17 (1) the department does not receive the application
18 and written notification described by Subsection (b-1) at least 30
19 days before that date; and

20 (2) no waiver under Subsection (b-2) applies.

21 (c-1) If the department does not receive the application and
22 written notification required by Subsection (b-1) at least 30 days
23 before the effective date requested in the application and
24 Subsection (b-2) does not apply, the effective date of the
25 temporary change of ownership license is the 31st day after the date
26 the department receives both the application and the notification.

27 (d) Except as provided in Subsection (d-1), after [After]

1 the department issues a temporary change of ownership license to
2 the applicant, the department shall conduct an inspection or survey
3 of the nursing facility under Section 242.043 as soon as reasonably
4 possible. During the period between the issuance of the temporary
5 license and the inspection or survey of the nursing facility or desk
6 review under Subsection (d-1), the department may not place a hold
7 on vendor payments to the temporary license holder.

8 (d-1) The department shall establish criteria under which a
9 desk review of the facility's compliance with applicable
10 requirements may be substituted for the on-site inspection or
11 survey under Subsection (d).

12 (e) After conducting an inspection or survey under
13 Subsection (d) or a desk review under Subsection (d-1), the
14 department shall issue a license under Section 242.033 to the
15 temporary change of ownership license holder if the nursing
16 facility passes the desk review, inspection, or survey and the
17 applicant meets the requirements of Section 242.033. If the
18 nursing facility fails to pass the desk review, inspection, or
19 survey or the applicant fails to meet the requirements of Section
20 242.033, the department may:

21 (1) place a hold on vendor payments to the temporary
22 change of ownership license holder; and

23 (2) take any other action authorized under this
24 chapter.

25 (f) If the applicant meets the requirements of Section
26 242.033 and the nursing facility passes a desk review, [~~an~~] initial
27 inspection, or [~~a~~] subsequent inspection before the temporary

1 change of ownership license expires, the license issued under
2 Section 242.033 is considered effective on the date the department
3 determines under Subsection (c) or (c-1) [~~requested in the~~
4 ~~application for a temporary change of ownership~~].

5 (g) A temporary change of ownership license issued under
6 Subsection (b) expires on the 90th [~~91st~~] day after the effective
7 date established under Subsection (c) or (c-1) [~~date the license~~
8 ~~was issued~~].

9 Explanation: The addition of the SECTION to the bill is
10 necessary to address a temporary change of ownership licenses for
11 certain facilities.

12 House Rule 13, Sections 9(a)(3) and (4), are suspended to
13 permit the committee to add the following:

14 SECTION 7. (a) As soon as practicable after the effective
15 date of this Act, the executive commissioner of the Health and Human
16 Services Commission shall adopt the rules required by Section
17 242.0336, Health and Safety Code, as amended by this Act.

18 (b) The changes in law made by this Act to Section 242.0336,
19 Health and Safety Code, apply only to a temporary change of
20 ownership license application received by the Department of Aging
21 and Disability Services on or after September 1, 2007. An
22 application received by the department before September 1, 2007, is
23 governed by the law in effect at the time the application is
24 received, and the former law is continued in effect for that
25 purpose.

26 Explanation: The addition of this provision is necessary to
27 properly implement the addition of SECTION 2 to the conference

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1 committee report.