

BILL ANALYSIS

C.S.H.B. 2971
By: Coleman
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Before opening, a newly constructed assisted living facility must pass a life safety code inspection by the Department of Aging and Disability Services (DADS) that measures compliance with fire control and other construction standards. An architect designs the facility and a contractor constructs the facility in accordance with these standards. While the 80th Legislature, Regular Session, 2007, granted DADS additional staff, the number of new assisted living facilities has increased and DADS has been unable to keep pace with the demand for these code inspections.

C.S.H.B. 2971 requires DADS to provide an expedited life safety code inspection to an applicant for an assisted living facility license, provided that the applicant pays for the expedition and provides for automatic issuances of a provisional license for certain assisted living facilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2 and 6 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 2971 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules not later than January 1, 2010, to implement an expedited inspection process that allows an applicant for an assisted living facility license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made. The bill authorizes the Department of Aging and Disability Services (DADS) to charge a fee to recover the cost of the expedited inspection and authorizes DADS, if DADS conducts at least three life safety code inspections at an applicant's facility, to collect a fee in addition to the application fee for the license.

C.S.H.B. 2971 specifies that a provisional license to establish or operate an assisted living facility is effective on the date requested by the applicant and that the license expires the earlier of the 180th day after the effective date of the provisional license or the end of any extension period granted by DADS, in the department's sole discretion, or the date a license is issued to the

qualifying provisional license holder after having passed the life safety code inspection and meeting all license requirements. The bill requires DADS to conduct a life safety code inspection of the facility as soon as reasonably possible after DADS issues a provisional license, and it requires DADS, after conducting a life safety code inspection, to issue a license to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license. The bill specifies that a license has the same effective date as the provisional license.

C.S.H.B. 2971 requires, rather than authorizes, DADS, upon submission of a written request by the applicant, to issue a provisional license automatically to a newly constructed facility that meets certain conditions. The bill adds conditions requiring such a license applicant to submit working drawings and specifications to DADS for review before beginning construction and requiring that DADS determine that the license applicant constructed another facility in Texas that complies with the department's life safety code standards. The bill adds another organization approved by the executive commissioner of HHSC to the meaning of "accreditation commission" for purposes of determining if a survey satisfies certain department inspection requirements.

C.S.H.B. 2971 repeals Sections 247.021(e) and (f), Health and Safety Code, relating to the issuance of a provisional license to operate an assisted living facility.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2971 differs from the original by requiring the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules to implement an expedited inspection process that allows an applicant for an assisted living facility license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made, whereas the original requires the Department of Aging and Disability Services (DADS) to implement a process in which such an applicant may obtain a life safety code and physical plant survey within five business days of the applicant's request for the survey.

C.S.H.B. 2971 omits a provision requiring the applicant to pay for the cost of an expedited survey and differs from the original by authorizing DADS to charge a fee, rather than to accept payment for the inspection. The substitute adds a provision not in the original authorizing DADS to collect a fee from an applicant in addition to the application fee if DADS conducts at least three inspections at the applicant's facility.

C.S.H.B. 2971 adds provisions not in the original establishing additional conditions that must be met for DADS to automatically issue a provisional license to a newly constructed facility and specifying that the issuance occurs upon submission of a written request by the applicant. The substitute adds provisions not in the original establishing the effective and expiration dates of a provisional license and requiring DADS to conduct a life safety code inspection of a facility as soon as reasonably possible after DADS issues a provisional license and to issue the license to the provisional license holder if the facility passes the inspection and the applicant meets all license requirements.

C.S.H.B. 2971 differs from the original by adding another organization approved by the executive commissioner of HHSC, rather than the commissioner of aging and disability services, to the meaning of "accreditation commission" for purposes of determining if a survey satisfies certain DADS inspection requirements.

C.S.H.B. 2971 differs from the original by repealing a provision prohibiting DADS from issuing a provisional license to an assisted living facility if the facility doesn't meet the standards at the end of a six-month period.

C.S.H.B. 2971 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.