

## **BILL ANALYSIS**

S.B. 1124  
By: West  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, before issuing a license for certain facilities, the Department of Aging and Disability Services (DADS) is required to conduct an on-site inspection. Completion of this on-site inspection requires use of inspector staff unnecessarily when an owner only undergoes an internal reorganization with no change in controlling parties or in the actual operation of the entity. A change authorizing DADS to determine, based on certain factors, whether and when an on-site inspection is required for a change of ownership, would enable DADS to increase the efficiency of its program and regional staff resources and would be a benefit to providers by reducing the processing and approval time for these changes of ownership.

S.B. 1124 permits DADS to substitute a desk review for an on-site inspection of adult day-care facilities, home and community support services agencies, assisted living facilities, and intermediate care facilities for persons with mental retardation, if DADS is issuing a license due only to a change of ownership of the facility or agency which does not involve the inclusion of any new parties as owners. The bill prohibits DADS from conducting a desk review, rather than a survey, inspection, or investigation for a license application submitted due to a change of ownership, until May 1, 2010.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of Aging and Disability Services, as the successor agency to TDH.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 142.009, Health and Safety Code), SECTION 2 (Section 247.023, Health and Safety Code), SECTION 3 (Section 252.033, Health and Safety Code), and SECTION 4 (Section 103.006, Human Resources Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 142.009 (Surveys; Consumer Complaints), Health and Safety Code, by amending Subsection (j) and adding Subsection (j-1), as follows:

(j) Creates an exception as provided by Subsection (j-1).

(j-1) Authorizes TDH, in accordance with TDH rules, to conduct a desk review instead of the initial survey required by Subsection (j) if the license application is submitted due to a change in ownership of an agency under this chapter. Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to develop criteria for determining when TDH is authorized to conduct a desk review instead of an on-site survey.

SECTION 2. Amends Subsection 247.023, Health and Safety Code, by adding Subsection (a-1), to authorize TDH, in accordance with TDH rules, to conduct a desk review instead of the inspection and investigation required by Subsection (a) (relating to the issuance and expiration of a license) if the license application is submitted due to a change in ownership of a facility under this chapter. Requires the executive commissioner by rule to develop criteria for determining when TDH is authorized to conduct a desk review instead of an inspection and investigation.

SECTION 3. Amends Section 252.033, Health and Safety Code, by adding Subsection (a-1), to authorize TDH, in accordance with TDH rules, to conduct a desk review instead of the on-site inspection and investigation under Subsection (a) (relating to issuing a license if facility and applicant meet requirements established under this chapter) if the license application is submitted due to a change in ownership of a facility under this chapter. Requires the executive commissioner by rule to develop criteria for determining when TDH is authorized to conduct a desk review instead of an on-site inspection and investigation.

SECTION 4. Amends Section 103.006, Human Resources Code, by adding Subsection (a-1), to authorize TDH, in accordance with TDH rules, to conduct a desk review instead of the on-site inspection under Subsection (a) (relating to issuing a license to an adult day-care facility that has met application requirements and received approval after on-site inspection) if the license application is submitted due to a change in ownership of the facility under this chapter. Requires the executive commissioner by rule to develop criteria for determining when TDH is authorized to conduct a desk review instead of an on-site inspection.

SECTION 5. (a) Requires the executive commissioner, not later than April 1, 2010, to adopt the rules required under Sections 142.009(j-1), 247.023(a-1), and 252.033(a-1), Health and Safety Code, and Section 103.006(a-1), Human Resources Code, as added by this Act.

(b) Prohibits the Department of Aging and Disability Services, notwithstanding Sections 142.009(j-1), 247.023(a-1), and 252.003(a-1), Health and Safety Code, and Section 103.006(a-1), Human Resources Code, as added by this Act, from conducting a desk review instead of a survey, inspection, or investigation for a license application submitted due to a change in ownership of an agency or facility under those sections until May 1, 2010.

SECTION 6. Effective date: September 1, 2009.

**EFFECTIVE DATE**

September 1, 2009.