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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

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TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2972** by Coleman (Relating to licensing of certain health facilities.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code as it relates to licensing of certain health facilities.

Sections 1 and 3 of the bill would add Subsection (b-1) to Section 242.0021 and 247.005, Health and Safety Code, which defines an officer or director of a corporation as a controlling person of an assisted living facility or institution or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation. The term would not include a shareholder or lender of the publicly traded corporation.

Sections 2 and 5 of the bill require the executive commissioner of the Health and Human Services Commission (commissioner) to adopt rules, not later than June 1, 2010, to implement an expedited inspection process that allows an applicant for a license or for a renewal of a license or for an initial assisted living facility license or renewal license to obtain a life safety code and physical plant inspection within 15 days of the request; the Department of Aging and Disability Services (DADS) is authorized to charge a fee to recover the cost of the expedited inspections. The rules must permit DADS to set different fee amounts based on the size and type of institution.

Section 4 of the bill would require DADS to conduct a life safety code inspection of the facility as soon as reasonably possible after the department issues a provisional license. If the facility passes the inspections and the applicant meets all the requirements for a license, DADS would be required to issue a license under Chapter 247 to the provisional license holder. Also, upon submission of a written request by the applicant, DADS would be required to automatically issue a provisional license to newly constructed facilities, if certain requirements are met. Under current law, DADS is authorized, but not required, to automatically issue a provisional license to newly constructed facilities if these requirements are met.

Section 6 of the bill allows DADS to collect an additional fee, in addition to the fee for an expedited life safety code inspection, if DADS conducts more than two life safety code inspections at the applicant's facility.

Section 7 of the bill would expand the definition of accreditation commission to include other organizations approved by the commissioner.

Section 8 of the bill repeals Sections 247.021 (e) and (f), Health and Safety Code, which are prohibitions on: 1) issuing a license to a facility at the end of the six-month provisional license, if the facility does not meet life safety code and physical plant standards; and 2) issuing a provisional license after December 31, 1999.

The bill also requires DADS to annually report the number of life safety code surveys for an initial assisted living facility license and DADS is authorized to report other data related to the timelines of life safety code surveys or the processing time of license applications.

It is assumed that the provisions of the bill could be implemented within existing resources. Sections 2 and 5 of the bill allow DADS to charge a fee for expedited surveys. It is assumed that any increase in expenditures for implementation of this provision would be offset by a gain in revenue that the agency would accomplish through fee collections; however, the increased revenue would need to be specifically appropriated to DADS in the General Appropriations Act.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 539 Aging and Disability Services, Department of
LBB Staff: JOB, SJ, CL, LR