

BILL ANALYSIS

Senate Research Center

H.B. 3451
By: Hilderbran (Moncreif)
Human Services
5/13/1999
Engrossed

DIGEST

Currently, under Section 242.268, Health and Safety Code, neither the state nor a nursing home may elect to resolve disputes using arbitration if the disputes are subject to Section 242.061, 242.062, or 242.072, Health and Safety Code. However, courts have ordered arbitration in just such situations. These orders have the effect of undermining the evident intent of the legislature when it enacted Section 242.268, Health and Safety Code. H.B. 3451 prohibits courts from ordering arbitration in cases in which violations of those provisions are alleged and provides that in instances in which arbitration is improperly ordered, the arbitration process must be dismissed and the court in which the underlying dispute was filed must retain jurisdiction.

PURPOSE

As proposed, H.B. 3451 sets forth guidelines relating to arbitration to resolve certain matters relating to nursing homes and related institutions.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 242.061, Health and Safety Code, by adding Subsection (d), to prohibit a court having jurisdiction of a judicial review of a matter for ordering arbitration to resolve a dispute involving the denial, suspension, or revocation of a license under this section or the conduct with respect to which the denial, suspension, or revocation of the license is sought.

SECTION 2. Amends Section 242.062, Health and Safety Code, by adding Subsection (e), to prohibit a court having jurisdiction of a judicial review of a matter for ordering arbitration to resolve a dispute involving an emergency suspension or closing order under this section or the conduct with respect to which the emergency suspension or closing order is sought.

SECTION 3. Amends Section 242.072, Health and Safety Code, by adding Subsection (f), to prohibit a court having jurisdiction of a judicial review of a matter for ordering arbitration to resolve a dispute involving an order suspending admissions under this section or the conduct with respect to which the order suspending admissions is sought.

SECTION 4. Amends Section 242.094, Health and Safety Code, by adding Subsection (f), to prohibit a court having jurisdiction of a judicial review of a matter from ordering to resolve the legal issues of a dispute involving the appointment of a trustee under this section or conduct with respect to which the appointment of trustee is sought.

SECTION 5. Effective date: September 1, 1999.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Emergency clause.