



House of Representatives

General Assembly

File No. 248

January Session, 2011

Substitute House Bill No. 6461

House of Representatives, March 28, 2011

The Committee on Housing reported through REP. BUTLER of the 72nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-41 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) For purposes of this section, a "tenant of the authority" means a
4 tenant who lives in housing owned or managed by a housing authority
5 or who is receiving housing assistance in a housing program directly
6 administered by such authority. When the governing body of a
7 municipality other than a town adopts a resolution as described in
8 section 8-40, it shall promptly notify the chief executive officer of such
9 adoption. Upon receiving such notice, the chief executive officer shall
10 appoint five persons who are residents of said municipality as
11 commissioners of the authority, except that [where the authority
12 operates more than three thousand units] the chief executive officer
13 may appoint two additional persons who are residents of the
14 municipality if (1) the authority operates more than three thousand

15 units, or (2) upon the selection of a tenant commissioner pursuant to
16 subsection (c) of this section, the additional appointments are
17 necessary to achieve compliance with 24 CFR 964.415 or section 9-167a.
18 If the governing body of a town adopts such a resolution, such body
19 shall appoint five persons who are residents of said town as
20 commissioners of the authority created for such town, except that such
21 body may appoint two additional persons who are residents of the
22 town if, upon the selection of a tenant commissioner pursuant to
23 subsection (c) of this section, the additional appointments are
24 necessary to achieve compliance with 24 CFR 964.415 or section 9-167a.
25 The commissioners who are first so appointed shall be designated to
26 serve for a term of either one, two, three, four or five years, except that
27 if the authority has five members, the terms of not more than one
28 member shall expire in the same year. Terms shall commence on the
29 first day of the month next succeeding the date of their appointment,
30 and annually thereafter a commissioner shall be appointed to serve for
31 five years except that any vacancy which may occur because of a
32 change of residence by a commissioner, removal of a commissioner,
33 resignation or death shall be filled for the unexpired portion of the
34 term. If a governing body increases the membership of the authority
35 on or after July 1, 1995, such governing body shall, by resolution,
36 provide for a term of five years for each such additional member. The
37 term of the chairman shall be three years. At least one of such
38 commissioners of an authority having five members, and at least two
39 of such commissioners of an authority having more than five
40 members, shall be a tenant or tenants [who live in housing owned or
41 managed by such authority, if any exists, provided that any such
42 tenant shall have resided in such housing for more than one year or is
43 a tenant who previously resided in such housing for more than one
44 year and is receiving housing assistance in a housing program directly
45 administered by such authority and provided further that no such
46 tenant shall have the authority to vote on any matter concerning the
47 establishment or revision of the rents to be charged in any housing
48 owned or managed by such authority] of the authority selected
49 pursuant to subsection (c) of this section. If, on October 1, 1979, a

50 municipality has adopted a resolution as described in section 8-40, but
51 has no tenants serving as commissioners, the chief executive officer of
52 a municipality other than a town or the governing body of a town shall
53 appoint a tenant who meets the qualifications set out in this section as
54 a commissioner of such authority when the next vacancy occurs. No
55 commissioner of an authority may hold any public office in the
56 municipality for which the authority is created. A commissioner shall
57 hold office until [his] said commissioner's successor is appointed and
58 has qualified. A certificate of the appointment or reappointment of any
59 commissioner shall be filed with the clerk and shall be conclusive
60 evidence of the legal appointment of such commissioner, after [he] said
61 commissioner has taken an oath in the form prescribed in the first
62 paragraph of section 1-25. The powers of each authority shall be vested
63 in the commissioners thereof. Three commissioners shall constitute a
64 quorum if the authority consists of five commissioners. Four
65 commissioners shall constitute a quorum if the authority consists of
66 more than five commissioners. Action may be taken by the authority
67 upon a vote of not less than a majority of the commissioners present,
68 unless the bylaws of the authority require a larger number. The chief
69 executive officer, or, in the case of an authority for a town, the
70 governing body of the town, shall designate which of the
71 commissioners shall be the first chairman, but when the office of
72 chairman of the authority becomes vacant, the authority shall select a
73 chairman from among its commissioners. An authority shall select
74 from among its commissioners a vice chairman, and it may employ a
75 secretary, who shall be executive director, and technical experts and
76 such other officers, agents and employees, permanent and temporary,
77 as it requires, and shall determine their qualifications, duties and
78 compensation, provided, in municipalities having a civil service law,
79 all appointments and promotions, except the employment of the
80 secretary, shall be based on examinations given and lists prepared
81 under such law, and, except so far as may be inconsistent with the
82 terms of this chapter, such civil service law and regulations adopted
83 thereunder shall apply to such housing authority and its personnel.
84 For such legal services as it requires, an authority may employ its own

85 counsel and legal staff. An authority may delegate any of its powers
86 and duties to one or more of its agents or employees. A commissioner,
87 or any employee of the authority who handles its funds, shall be
88 required to furnish an adequate bond. The commissioners shall serve
89 without compensation, but shall be entitled to reimbursement for their
90 actual and necessary expenses incurred in the performance of their
91 official duties.

92 (b) Tenants of the authority may form a tenant organization that
93 shall have the power to recommend or designate tenants for
94 appointment as tenant commissioner in accordance with subsection (c)
95 of this section. Upon the election of the governing board of a tenant
96 organization, such organization may request to be recognized by the
97 authority as an official tenant organization representing all tenants of
98 the authority. If the authority determines that the election of the
99 governing board was conducted fairly and with sufficient notice of the
100 election to all tenants of the authority, it shall recognize the tenant
101 organization as the official tenant organization. The authority shall
102 recognize any tenant organization as the official tenant organization if
103 the governing board of such tenant organization was elected in
104 accordance with the requirements set forth in 24 CFR 964.130.

105 [(b)] (c) Any tenant organization composed of tenants [residing
106 within units owned or managed by the appointing] of the authority
107 may indicate to such authority its desire to be notified of any pending
108 appointment of any such commissioner. A reasonable time before
109 appointing any such commissioner, the [appointing] authority shall
110 notify any such tenant organization. [and, in making such
111 appointment, such authority shall consider tenants suggested by such
112 tenant organizations.] If a tenant organization has been recognized by
113 the authority as the official tenant organization, then the appointee as
114 tenant commissioner shall be selected by (1) a fair election by the
115 tenants of the authority, provided all such tenants received sufficient
116 notice of such election, or (2) other means provided for in the by-laws
117 adopted by such tenant organization, including, but not limited to,
118 selection by its governing board. If a tenant organization has not been

119 recognized by the authority as the official tenant organization and if
 120 ten per cent of the tenants of the authority or seventy-five tenants,
 121 whichever is less, petition the authority for an election, then the
 122 appointee as tenant commissioner shall be selected by a fair election by
 123 the tenants of the authority, provided all such tenants received
 124 sufficient notice of such election. If an appointee as tenant
 125 commissioner has not been selected by an election of the tenants of the
 126 authority or by other means pursuant to the by-laws adopted by an
 127 official tenant organization, then the appointing authority shall select
 128 the appointee. In making such selection, the appointing authority shall
 129 consider any tenants suggested by tenant organizations. For any
 130 election conducted pursuant to this subsection for a commission of the
 131 authority having more than five members, the authority may establish
 132 qualifications for the second tenant commissioner as necessary to
 133 achieve compliance with 24 CFR 964.415 or section 9-167a.

134 (d) For any election conducted pursuant to subsections (b) and (c) of
 135 this section, the housing authority shall use its best efforts to secure a
 136 neutral third-party organization to administer such election. To the
 137 extent practicable, such third-party organization shall be selected with
 138 the agreement of the official tenant organization, if any.

139 [(c)] (e) Notwithstanding any provision of subsection (a) of this
 140 section or any other provision of the general statutes, [to the contrary,]
 141 a commissioner of an authority may serve as a justice of the peace or a
 142 registrar of voters.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	8-41

HSG *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill results in no fiscal impact as it relates to the administration of private entities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 6461

AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS.

SUMMARY:

This bill:

1. establishes a process for recognizing public housing authority tenant organizations that can elect or designate a tenant commissioner to the authority's board of commissioners;
2. establishes procedures under which a tenant organization may elect or designate a tenant commissioner;
3. provides a mechanism for tenants to petition for an election if no recognized tenant organization exists;
4. expands the definition of "tenants" who are eligible to participate in the selection and serve on the board;
5. authorizes housing authority boards in towns and other municipalities with 3,000 or fewer units to have two additional members (up to seven) under certain circumstances; and
6. removes the prohibition against tenant commissioners voting to establish or revise rents.

Under the bill, "tenant of the authority" means someone who receives housing assistance in a housing program that the authority directly administers (e.g., Section 8 recipients renting from private landlords), as well as someone who lives in housing that the authority owns or manages. The bill thus removes a requirement under which tenants qualify for commissioner only if they have currently or

previously lived in authority housing for at least one year.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2011

BOARD MEMBERSHIP

By law, a housing authority in a municipality other than a town (e.g., a city) operating more than 3,000 units must have a five-member board of commissioners comprised of municipal residents and may have up to two additional members. At least two must be tenant members. Under current law, a municipal authority with 3,000 or fewer units must have a five-member board comprised of municipal residents, including at least one tenant member. Similarly, a housing authority in any town must have a five-member board comprised of town residents, including at least one tenant member.

The bill authorizes housing authority boards in towns and other municipalities operating 3,000 or fewer units to have two more members if, after a tenant commissioner is elected, additional appointments are necessary to achieve compliance with (1) federal rules specifying that resident board members are only eligible when they receive direct assistance from the housing authority or (2) state minority representation requirements (see BACKGROUND). Table 1 shows the maximum number of commissioners in towns and other municipalities under current law and the bill; the appointing authority, if any; and the selection method.

Table 1: Board Membership under Current Law the Bill

Type of Municipality	Current Law	The Bill
Towns	Governing body appoints five commissioners, including at least one tenant commissioner.	Governing body appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. At least one must be a tenant commissioner who may be elected.

<p>Other municipalities where housing authority operates 3,000 or fewer units</p>	<p>Chief executive officer appoints five commissioners, including at least one tenant commissioner.</p>	<p>Chief executive officer appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law.</p> <p>At least one must be a tenant commissioner who may be elected.</p>
<p>Other municipalities where housing authority operates more than 3,000 units</p>	<p>Chief executive office must appoint five members and may appoint at least two additional members. At least two must be tenant commissioners.</p>	<p>Chief executive officer appoints up to five members and may appoint two more.</p> <p>At least two must be tenant commissioners who may be elected.</p>

TENANT COMMISSIONER SELECTION

Under current law, the municipality’s chief executive officer or governing body (i.e., appointing authority) appoints housing authority commissioners, including the tenant commissioners. In doing so, they must consider for appointment tenant commissioners suggested by any existing tenant organization.

The bill establishes a process for recognizing tenant organizations that may elect or designate tenants to the board according to the organization’s by-laws. It also provides a mechanism for tenants to petition for an election if no recognized tenant organization exists. Whether an election is required or petitioned by the tenants, the housing authority must use its best efforts (in agreement with the tenant organization, to the extent practicable) to arrange for a neutral third-party organization to administer the election.

If the bill’s provisions for electing a tenant commissioner or selecting one under a tenant organization’s by-laws are not used, then the appointing authority must select the appointee or appointees by considering tenants the organization suggests, as under current law.

TENANT ORGANIZATION

Recognized Tenant Organization

The bill formalizes the process for recognizing tenant organizations with the power to recommend or designate tenants for the board of commissioners. By law, any tenant organization can (1) indicate its interest in receiving notice of a pending housing authority appointment and (2) suggest candidates for the position of tenant commissioner.

The bill gives tenants the explicit authority to establish a tenant organization, which may elect a governing board and may ask the housing authority to recognize it as representing all the authority's tenants. The authority must recognize the organization as official if it determines that the governing board's election was conducted (1) fairly and with sufficient notice to all tenants or (2) according to procedures and standards federal regulations set (e.g., an independent third-party oversaw the election).

A recognized organization then has the power to elect or select the tenant commissioner for appointment to the housing authority.

Official Tenant Organization

When an official tenant organization is recognized, a tenant commissioner appointee must be selected (1) in an election by all tenants who have received sufficient notice of the election or (2) by another means specified in the organization's by-laws. An alternative means can include selection by the tenant organization's governing board.

No Official Tenant Organization

When no official organization has been recognized, 10% of the tenants or 75 tenants, whichever is less, can petition the authority for an election to select a tenant commissioner. In that case, all tenants must receive notice of the election, and the commissioner is selected by a vote of all the tenants.

TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY

The bill reduces the criteria a tenant must meet to serve as commissioner. Current law allows only current or former housing authority tenants to qualify for tenant commissioner. It also sets a length-of-residency requirement. Specifically, a tenant is eligible only if, for at least one year, he or she currently or previously resided in authority-owned or -managed housing. A tenant who previously resided in such housing must currently receive housing assistance in a program that the authority administers (for example, individuals residing in privately owned units but whose rents the authority subsidizes).

The bill (1) extends eligibility to individuals who receive housing assistance from the authority but who never lived in authority-owned or -managed housing and (2) eliminates the length-of-residency requirement.

When a tenant commissioner is elected to a five-member board, in either in a town or other municipality, the bill authorizes the housing authority to set the qualifications for a second tenant commissioner to achieve compliance with (1) federal rules specifying that resident board members are only eligible when they receive direct assistance from the housing authority and (2) minority representation requirements.

BACKGROUND

Minority Representation

The minority representation law restricts the maximum number of members of one political party who can serve on certain state and municipal boards and commissions. Once candidates from the same political party fill the maximum allowable slots, the highest vote getters from any other party or parties, or unaffiliated candidates, fill the remaining positions. Table 2 provides the minority representation requirement.

Table 2: Minority Representation Requirement

Total Board Membership	Maximum from One Party
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3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	Two-thirds of total membership

Federal Regulations

Under federal regulations, the governing board of each public housing agency receiving federal assistance must have at least one eligible resident. An “eligible resident” is a person (1) who is directly assisted by a public housing agency, (2) whose name appears on the lease, and (3) is age 18 or older (24 CFR 964.410 and 964.415).

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 10 Nay 1 (03/10/2011)