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## **OLR Bill Analysis**

**sHB 6461 (as amended by House "A")\***

### ***AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS.***

#### **SUMMARY:**

This bill:

1. increases, from five to seven, the maximum number of commissioners who may sit on municipal housing authority boards of commissioners under certain circumstances;
2. expands the definition of "tenants" who are eligible to participate in a tenant commissioner election or serve on the housing authority's board of commissioners;
3. provides a mechanism for housing authority tenants to petition for a tenant commissioner election;
4. establishes requirements for a housing authority's recognized jurisdiction-wide tenant organization that can select a tenant commissioner in the absence of an election petition;
5. establishes procedures under which this organization selects a tenant commissioner; and
6. allows tenant commissioners to vote 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.

\*House Amendment "A" (1) allows tenants to petition for an election even if a recognized jurisdiction-wide tenant organization exists, (2) requires jurisdiction-wide tenant organizations to comply with most federal regulations, and (3) adds the bill's deadlines.

EFFECTIVE DATE: October 1, 2011

**BOARD OF COMMISSIONERS 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 housing authority in a town or other municipality with 3,000 or fewer units must have a five-member board comprised of municipal residents, including at least one tenant member.

The bill authorizes boards of commissioners in cities operating 3,000 or fewer units or in towns to have two more members if, after a tenant commissioner is elected or selected under the bill's provisions, additional commissioners are necessary to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) 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 and the Bill**

<i>Type of Municipality</i>	<i>Current Law</i>	<i>The Bill</i>
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.

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

**RECOGNIZED JURISDICTION-WIDE TENANT ORGANIZATION**

The bill codifies the process for recognizing a jurisdiction-wide tenant organization with the power to elect or select 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 explicitly allows tenants to establish a recognized jurisdiction-wide tenant organization. The housing authority must recognize a jurisdiction-wide tenant organization if it determines that the (1) the governing board members were elected through a jurisdiction-wide election and (2) with one exception, it satisfies the U.S. Department of Housing and Urban Development (HUD) regulations for elected jurisdiction-wide resident councils (see BACKGROUND). The exception allows tenants who receive state or

federal assistance, not just those who receive federal assistance, to vote for, and be, jurisdiction-wide tenant organization members.

### **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 (1) provides a mechanism for tenants to petition for a tenant commissioner election and (2) requires a jurisdiction-wide tenant organization to select the tenant commissioner in the absence of such a petition. If these provisions are not used, then the appointing authority selects the appointee or appointees.

#### ***Notice of Upcoming Vacancy***

The bill requires a housing authority to notify its tenants and any existing tenant organizations no later than 60 days before a tenant commissioner (1) appointment or (2) term expiration, whichever is sooner. The notice must include information on how tenants may petition for an election.

#### ***Election by Housing Authority Tenants***

The bill allows tenants to petition for an election up to 30 days after the housing authority notice. Ten percent of the tenants or 75, whichever is less, must sign the petition.

At least 30 days before an election, the housing authority must provide written notice to all housing authority tenants. It must use its best efforts (in agreement with the recognized jurisdiction-wide tenant organization, to the extent practicable) to arrange for an impartial entity to administer the election. In the event of a dispute over election procedures or results, the bill specifies that anyone may petition the entity administering the election for a resolution.

#### ***Selection by Recognized Jurisdiction-Wide Tenant Organization***

If tenants do not petition for an election, the recognized jurisdiction-wide tenant organization, if any, must select the tenant commissioner according to its adopted by-laws. Among other things, the method may include (1) a fair election by authority tenants or (2) selection by the organization's governing board.

***Selection by Appointing Authority***

If a tenant commissioner is not elected or chosen under the bill's provisions within 90 days after the housing authority notice, then the appointing authority must make the appointment by considering tenants that any tenant organization suggests, as under current law.

**TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY**

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 a board must have at least one resident board member who directly receives federal assistance from the housing authority (i.e., no state assistance) and (2) state 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**

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

### ***Federal Regulations***

***Direct Federal Assistance.*** 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) who is age 18 or older.

Someone is “directly assisted” when he or she is a public housing resident or a recipient of housing assistance in the tenant-based Section 8 program. Direct assistance does not include any state-financed housing assistance or Section 8 project-based assistance (24 CFR 964.410 and 964.415).

***Elected Jurisdiction-Wide Resident Councils.*** Under HUD regulations, resident councils must adhere to certain minimum standards regarding election procedures. Among other things, they must:

1. assure fair and frequent elections of resident council members

(at least once every three years);

2. adopt and issue election and recall procedures in their by-laws;
3. include in their election procedures qualifications to run for office, frequency of elections, procedures for recall, and term limits if any; and
4. give residents at least 30 days notice for nomination and election.

A resident council must use an independent third-party to oversee an election or recall (24 CFR 964.105 and 964.130).

### **COMMITTEE ACTION**

#### Housing Committee

Joint Favorable Substitute

Yea 10 Nay 1 (03/10/2011)

#### Planning and Development Committee

Joint Favorable

Yea 14 Nay 1 (05/02/2011)