



# House of Representatives

**File No. 773**

General Assembly

January Session, 2011

**(Reprint of File No. 248)**

Substitute House Bill No. 6461  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 9, 2011

**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 Section 8-41 of the general statutes is repealed and the  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 appointment of a tenant commissioner pursuant

16 to 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 appointment 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) The authority shall designate a tenant organization as the  
93 recognized jurisdiction-wide tenant organization only if (1) the  
94 members of the governing board of such tenant organization were  
95 elected through a jurisdiction-wide election, and (2) such tenant  
96 organization satisfies the requirements for elected jurisdiction-wide  
97 resident councils pursuant to regulations promulgated by the United  
98 States Department of Housing and Urban Development, except that a  
99 tenant of the authority shall be eligible to vote in any election for the  
100 governing board of such tenant organization and to serve on the  
101 governing board of such tenant organization without regard to  
102 whether such tenant receives or lives in housing that receives federal  
103 assistance. Any tenant organization that has been designated by the  
104 authority as the recognized jurisdiction-wide tenant organization may  
105 select tenants for appointment as tenant commissioner in accordance  
106 with subsection (c) of this section.

107 ~~[(b)]~~ (c) [Any tenant organization composed of tenants residing  
108 within units owned or managed by the appointing authority may  
109 indicate to such authority its desire to be notified of any pending  
110 appointment of any such commissioner. A reasonable time before  
111 appointing any such commissioner, the appointing authority shall  
112 notify any such tenant organization and, in making such appointment,  
113 such authority shall consider tenants suggested by such tenant  
114 organizations.] (1) Not less than sixty days before the appointment of  
115 any tenant commissioner or the expiration of the term of any tenant  
116 commissioner, whichever is earlier, the housing authority shall notify  
117 all tenant organizations comprised of tenants residing within units  
118 owned or managed by such housing authority and all tenants of such  
119 authority of such pending appointment or expiration of term. The

120 notice shall include information concerning procedures by which  
121 tenants may petition for an election pursuant to this subsection.

122 (2) The appointee as tenant commissioner shall be selected by a fair  
123 election of the tenants of the authority if, not more than thirty days  
124 after the authority notifies such tenants of a pending appointment or  
125 expiration of term pursuant to subdivision (1) of this subsection, ten  
126 per cent of the tenants of the authority or seventy-five tenants of the  
127 authority, whichever is less, petition the authority for an election.

128 (3) If the tenants of the authority have not petitioned for an election  
129 pursuant to subdivision (2) of this subsection, then the appointee as  
130 tenant commissioner shall be selected by the recognized jurisdiction-  
131 wide tenant organization, if any, by means provided for in the by-laws  
132 adopted by such tenant organization. Such means may include,  
133 without limitation, a fair election by the tenants of the authority or  
134 selection by the governing board of such tenant organization.

135 (4) If an appointee as tenant commissioner has not been selected by  
136 an election of the tenants of the authority or by other means pursuant  
137 to the by-laws adopted by the recognized jurisdiction-wide tenant  
138 organization by the date ninety days after the date the housing  
139 authority provides notice of a pending appointment or expiration of  
140 term pursuant to subdivision (1) of this subsection, then the appointing  
141 authority shall select the appointee. In making such selection, the  
142 appointing authority shall consider any tenant recommended by any  
143 tenant organization within its jurisdiction or the jurisdiction-wide  
144 tenant organization.

145 (5) The housing authority shall provide all tenants of the authority  
146 with written notice of any election conducted pursuant to this  
147 subsection or subsection (b) of this section not later than thirty days  
148 before the date of such election. For any election conducted pursuant  
149 to this subsection for an authority having more than five  
150 commissioners, the housing authority may establish qualifications for  
151 the second tenant commissioner as necessary to achieve compliance

152 with 24 CFR 964.415 or section 9-167a.

153 (d) For any election conducted pursuant to subsection (c) of this  
154 section, the housing authority shall use its best efforts to secure an  
155 impartial entity to administer such election. To the extent practicable,  
156 such impartial entity shall be selected with the agreement of the  
157 recognized jurisdiction-wide tenant organization, if any. In the event  
158 of a dispute concerning the procedure for or results of such election,  
159 any person may petition the entity administering such election for a  
160 resolution of such dispute.

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

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

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.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill, which specifies the process on the selection of tenant commissioners of housing authorities, results in no fiscal impact. Housing authorities are quasi-public entities which are not directly funded by the state or municipalities.

House "A" further clarifies the specifics on the selection process of tenant commissioners. There is no associated fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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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>
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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)