

## **BILL ANALYSIS**

H.B. 398  
Mowery  
Urban Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapter 392 of the Local Government Code is entitled *Housing Authorities Established By Municipalities and Counties*. It contains the following subchapters:

- Subchapter A. General Provisions.
- Subchapter B. Creation and Area of Operation of a Housing Authority.
- Subchapter C. Commissioners and Employees.
- Subchapter D. Hours and Duties of a Housing Authority.
- Subchapter E. Bonds and Other Obligations.
- Subchapter F. Remedies.

The housing authority legislation was first enacted by the state legislature in 1937. The “short title” for this law is “the Housing Authorities Law.” By statute, common public housing authorities are not operated for profit. The property of a housing authority is declared the public property exempt from taxation. The housing authority is a unit of government for purposes of the Texas Tort Claims Act. The housing authority is created in each municipality in Texas by statute without any need for further local action. Likewise, a housing authority is created in each county. Housing authorities become operational only when the city or county declares there to be a need for the authority. A municipal housing authority may operate both within the city limits and within five miles of the city limits. A municipal housing authority is governed by a board of commissioners comprising five, seven, nine, or eleven commissioners. A commissioner may not be an official or employee of the city. County housing authorities are governed by five commissioners. Commissioners of both types of authorities are appointed. Housing commissioners generally serve two-year terms. Housing commissioners may be removed by either a municipal mayor or the commissioners court on grounds of inefficiency, neglect of duty, or misconduct. Housing authorities have general, independent powers to construct and operate housing projects. The housing authorities must comply with zoning standards as well as health and safety ordinances and building codes. Under current law, Local Government Code § 392.053, a housing authority must conduct a “public meeting” before the construction of a new housing project. Construction or occupancy permits may not be issued without such a public meeting. H.B. 398 would extend this public meeting requirement to the acquisition of existing structures. Furthermore, H.B. 398 would add a requirement that any local political subdivision with authority to issue a permit for the occupancy or operation of a housing project be represented at the public meeting. H.B. 398 would further add the requirement of local approval by the city or other regulatory political subdivision before a housing authority could acquire existing multi-family structures for use as a housing project. Local approval would also be required for the construction of any new project.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

SECTION 1. Amends Local Government Code § 392.003 related to legislative findings to include a legislative finding that the public participate in decisions on housing projects.

SECTION 2. Amends Local Government Code § 392.053 to add to the public meeting requirement the proposed acquisition of existing multi-family housing projects and to require that the city and other regulatory bodies send a “representative” to this public meeting. Requires a housing authority to submit the results of the public meeting to the local political subdivisions to whom the bill would vest authority to approve proposed projects.

SECTION 3. Adds Local Government Code § 392.0545 to require the approval of a housing project by any political subdivision with the authority to issue a permit for its construction, operation, or occupancy as well as the city within which a project may be located. Projects not within a municipality may be approved by the county.

SECTION 4. Prospective applications.

SECTION 5. Effective date.

**EFFECTIVE DATE:** September 1, 2003.