

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1818
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Government Organization
5/16/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Created in 1995, the Texas State Affordable Housing Corporation (TSAHC) is a self-sustaining nonprofit corporation that helps Texans obtain affordable housing. To achieve its mission, TSAHC issues bonds to help teachers, firefighters, police officers, and low-income families purchase homes; provides loans to affordable housing developers; and seeks private funds to help support affordable housing.

TSAHC self-funds its operations and receives no state-appropriated funding. In fiscal year 2010, TSAHC spent \$4.8 million, with \$1.9 million of this amount paying for its operations. A five-member, governor-appointed board oversees TSAHC, which employs 14 people in Austin.

TSAHC underwent Sunset review last session, but the bill did not pass. As a result, TSAHC underwent a special purpose Sunset review, and this bill contains the recommendations that continue to be appropriate for consideration by this legislature.

TSAHC is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. The Sunset Advisory Commission recommends continuing TSAHC for 12 years, as it is making progress on maximizing its potential as a nonprofit to solicit funds, award grants, and leverage funding to support housing initiatives.

C.S.H.B. 1818 amends current law relating to the continuation and functions of the Texas State Affordable Housing Corporation and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the Texas State Affordable Housing Corporation in SECTION 5 (Section 2306.5549, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2306.5521, Government Code, to provide that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), the Texas State Affordable Housing Commission (TSAHC) is abolished and this subchapter expires September 1, 2023, rather than September 1, 2011.

SECTION 2. Amends Sections 2306.554(a) and (b), Government Code, as follows:

(a) Provides that the board of directors of TSAHC (TSAHC board) consists of five members appointed by the governor. Requires that one member represent the interests of individuals and families served by the corporation's single-family mortgage loan programs, one member represent nonprofit housing organizations, and the remaining three members represent one or more of the following areas, rather than provides that the TSAHC board consists of five members appointed by the governor who represent any of the following areas set forth under this subsection.

(b) Requires the governor to designate a member of the TSAHC board as the presiding officer of the board of directors to serve in that capacity at the pleasure of the governor,

rather than requires the governor to designate the presiding officer of the TSAHC board from the members.

SECTION 3. Amends Section 2306.5543(b), Government Code, as follows:

(b) Requires that the training program provide the person with information regarding certain aspects of TSAHC, including the legislation that created TSAHC, the programs, functions, rules, and budget of TSAHC; and the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest.

Deletes existing text requiring that the training program provide the person with information regarding certain aspects of TSAHC, including the legislation that created TSAHC and the TSAHC board; the programs operated by TSAHC; the role and functions of TSAHC; the rules of TSAHC with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for TSAHC; and the requirements of other laws relating to public officials, including conflict-of-interest laws.

SECTION 4. Amends Section 2306.5545(b), Government Code, to prohibit a person from being a member of the TSAHC board and from being a TSAHC employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction, or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction.

SECTION 5. Amends Subchapter Y, Chapter 2306, Government Code, by adding Section 2306.5549, as follows:

Sec. 2306.5549. MEETINGS OF THE CORPORATION'S BOARD. (a) Authorizes the governing board of TSHCA (TSAHC board) to hold meetings when called by the presiding officer, the director, or three of the members.

(b) Requires TSAHC's board to keep minutes and complete transcripts of its meetings. Requires TSAHC to post the transcripts on its Internet website and to otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) Requires that all materials provided to the TSAHC board that are relevant to a matter proposed for discussion at a TSAHC board meeting be posted on TSAHC's Internet website not later than the third day before the date of the meeting.

(d) Requires that any materials made available to the TSAHC board by TSAHC at a TSAHC board meeting be made available in hard-copy format to the members of the public in attendance at the meeting.

(e) Requires the TSAHC board to conduct its meetings in accordance with Chapter 551 (Open Meetings), except as otherwise required by this chapter.

(f) Requires the TSAHC board, for each item on the agenda at TSAHC board meeting, to provide for public comment after the presentation made by TSAHC staff and the motions made by the TSAHC board on that topic.

(g) Requires TSAHC board to adopt rules that give the public a reasonable amount of time for testimony at meetings.

SECTION 6. Amends Subchapter Y, Chapter 2306, Government Code, by adding Section 2306.5553, as follows:

Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) Requires TSAHC to make a good faith effort to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses for all services that may be required by TSAHC, including professional and consulting services and commodities purchases.

(b) Requires that a good faith effort under Subsection (a) in accordance with Subchapter B (Historically Underutilized Business Program), Chapter 20 (Texas Procurement and Support Services), Title 34 (Public Finance), Texas Administrative Code, include awarding historically underutilized businesses at least a portion of the total contract value of all contracts TSAHC expects to award in a state fiscal year.

(c) Authorizes TSAHC to achieve annual procurement goals under this section by contracting directly with historically underutilized businesses or by contracting indirectly with those businesses through the provision of subcontracting opportunities.

SECTION 7. Amends Section 2306.559(d), Government Code, to require that the report include certain information, including the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received; the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether the corporation provides those loans directly to the developers or administers the loans from another source; the amount and source of funds deposited into any fund created by TSAHC for the purpose of providing grants and the number, amount, and purpose of any grants provided; and the total amount of annual revenue generated by TSAHC in excess of its expenditures.

SECTION 8. Amends Subchapter Y, Chapter 2306, Government Code, by adding Section 2306.5671, as follows:

Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS OR AGREEMENTS. Requires that a compliance contract or agreement between TSAHC and a housing sponsor that receives bond financing by or through TSAHC for the purpose of providing affordable multifamily housing contain a provision stating that if the housing sponsor fails to comply with the terms of the contract or agreement, may, at a minimum and as appropriate:

- (1) assess penalties;
- (2) remove the manager of the affected property and select a new manager;
- (3) withdraw reserve funds to make needed repairs and replacements to the property; or
- (4) appoint TSAHC as a receiver to protect and operate the property.

SECTION 9. Amends Section 2306.568, Government Code, as follows:

Sec. 2306.568. RECORD OF COMPLAINTS. (a) Requires TSAHC to maintain a system to promptly and efficiently act on complaints filed with TSAHC, rather than requires TSAHC to maintain a file on each written complaint filed with TSAHC. Requires TSAHC to maintain information about parties to the complaint, rather than requires that the file include certain information, including the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

Deletes existing text requiring that the file include certain information, including the name of the person who filed the complaint; the date the complaint is received by TSAHC; the name of each person contacted in relation to the complaint; and an

explanation of the reason the file was closed, if TSAHC closed the file without taking action other than to investigate the complaint.

(b) Requires TSAHC to make information available describing its procedures for complaint investigation and resolution, rather than requires TSAHC to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of TSAHC's policies and procedures relating to complaint investigation and resolution.

(c) Requires TSAHC to periodically notify the complaint parties of the status of the complaint until final disposition, rather than requires TSAHC at least quarterly until final disposition of the complaint to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 10. Provides that Section 2306.5671, Government Code, as added by this Act, does not affect the terms of a compliance contract or agreement entered into before the effective date of this Act, except that if the contract or agreement is renewed, modified, or extended on or after the effective date of this Act, Section 2306.5671 applies to the contract or agreement beginning on the date of renewal, modification, or extension.

SECTION 11. Provides that the change in law made by this Act relating to the qualifications for membership on the TSAHC board does not affect the eligibility of a member serving immediately before the effective date of this Act to continue to serve on the TSAHC board for the term to which the member was appointed. Requires the governor, not later than February 1, 2015, to appoint members of the TSAHC board as necessary to ensure that the composition of the TSAHC board complies with Section 2306.554(a), Government Code, as amended by this Act.

SECTION 12. Effective date: September 1, 2011.