

BILL ANALYSIS

S.B. 649
By: Hinojosa
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Created in 1995, the Texas State Affordable Housing Corporation (corporation) is a self-sustaining nonprofit corporation that helps Texans obtain affordable housing. To achieve its mission, the corporation 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.

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

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

The corporation is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. Sunset recommends continuing the corporation 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.

As proposed, S.B.649 amends current law relating to the continuation and functions of the Texas State Affordable Housing Corporation, and provides penalties.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 2306.5521, Government Code, to provide that unless continued in existence as provided by Chapter 325 (Sunset Law), the Texas State Affordable Housing Corporation (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) Requires that one member of the board of directors of TSAHC (board) represent the interests of individuals and families served by TSAHC's single-family mortgage loan programs, one member of the board represent nonprofit housing organizations, and the remaining three members of the board represent one or more, rather than any, of certain areas as set forth. Makes a nonsubstantive change.
- (b) Requires the governor to designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. Deletes existing text requiring the governor to designate the presiding officer of the 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:
 - (1) the legislation that created TSAHC;
 - (2) the programs, functions, rules, and budget of TSAHC;

- (3) the results of the most recent formal audit of TSAHC;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by TSAHC or the Texas Ethics Commission.

Deletes existing text requiring that the training program provide the person with information regarding the legislation that created TSAHC and the 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 the corporation; and the requirements of the open meetings law, Chapter 551, the public information law, Chapter 552, the administrative procedure law, Chapter 2001, and other laws relating to the public officials, including conflict-of interest laws.

SECTION 4. Amends Section 2306.5545(b), Government Code, to include that a person who is an officer, employee, or paid consultant of a Texas trade association in the field of mortgage lending, or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of mortgage lending, on the list of persons who are prohibited from being a member of the board and from being a TSAHC employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for the 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.

SECTION 5. Amends Section 2306.559(d), Government Code, as follows:

- (d) Requires that the report include:
 - (1) a statement of support, revenue, and expenses and change in fund balances;
 - (2) a statement of functional expenses;
 - (3) the balance sheets for all funds;
 - (4) the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received;
 - (5) the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether TSAHC provides those loans directly to the developers or administers the loans from another source;
 - (6) 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
 - (7) the total amount of annual revenue generated by TSAHC in excess of its expenditures.

SECTION 6. 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, TSAHC is authorized, at a minimum and as appropriate, to:

- (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 7. 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, rather than maintain a file on each written complaint, filed with TSAHC. Requires TSAHC to maintain information about parties to the complaint, 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 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. Makes nonsubstantive changes.

(b) Requires TSAHC to make information available describing its procedures for complaint investigation and resolution, rather than 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 requiring 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 8. 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 9. Provides that the change in law made by this Act relating to the qualifications for membership on the board does not affect the eligibility of a member of the board serving immediately before the effective date of this Act to continue to serve on the board for the term to which the member was appointed. Requires the governor, not later than February 1, 2015, to appoint members of the board as necessary to ensure that the composition of the board complies with Section 2306.554(a), Government Code, as amended by this Act.

SECTION 10. Effective date: September 1, 2011.

EFFECTIVE DATE

September 1, 2011.