

BILL ANALYSIS

Senate Research Center
87R12290 SMT-F

S.B. 1942
By: Gutierrez
Local Government
4/23/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A housing authority is a governmental unit and can only act to promote a public purpose, exercising public and essential governmental functions with the powers necessary to accomplish the purposes.

When a housing authority creates a nonprofit corporation, it is with the understanding that it act as its instrumentality, aligned with its public purpose. A question has arisen that a nonprofit created by a governmental body may act on its own and cease serving as an instrumentality of the governmental body. If unchecked, a nonprofit could convert public assets for private use without complying with the well-established gifting prohibitions found in the Texas Constitution.

Current law—i.e., the Texas Public Facility Act, Chapter 303.022, Local Government Code—states that a nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is considered a corporation under this chapter and has the rights and powers necessary or convenient to accomplish a corporation's purposes.

S.B. 1942 seeks to make clear that a nonprofit established by a housing authority shall remain part of the entity regardless of when it was created or whether it was created relying on the Texas Public Facility Act.

As proposed, S.B. 1942 amends current law relating to the creation of public facility corporations and requirements applicable to public facility corporations.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 303.021, Local Government Code, by adding Subsection (c), to require a corporation created under Chapter 303 (Public Facility Corporations) to remain a public facility corporation under Chapter 303.

SECTION 2. Amends Section 303.022, Local Government Code, as follows:

Sec. 303.022. CREATION UNDER OTHER LAW. Provides that a nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), regardless of the date the corporation is created, is considered a corporation under Chapter 303, has the rights and powers necessary or convenient to accomplish a corporation's purposes under Chapter 303, and is subject to the requirements of Chapter 303. Makes a nonsubstantive change.

SECTION 3. Effective date: upon passage or September 1, 2021.