

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 1043 An Act Relating to Housing Authorities

**SPONSOR(S):** Economic Development & Tourism Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Economic Development & Tourism Subcommittee		Collins	Duncan

**SUMMARY ANALYSIS**

Current law provides for the creation of city, county, and regional housing authorities pursuant to part I, chapter 421, F.S., the Housing Authorities Law. Regional housing authorities are created by the merging of two or more contiguous county housing authorities. However, no such process is authorized by law which would allow a city housing authority and a county housing authority to merge.

The bill creates a process by which a city and county housing authority, two city housing authorities and a county housing authority, or three city housing authorities may merge to form a consolidated housing authority. The bill also establishes provisions relating to a consolidated housing authority's area of operation; and the appointment, powers, and duties of commissioners. Housing authorities that merge to form a consolidated housing authority must be located within the same county.

The bill has no impact on state or local funds.

The bill provides an effective date of July 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### State Government and Public Housing

Florida law provides that the role of state government in housing and urban development required by part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities) is the responsibility of the Department of Economic Opportunity (DEO).<sup>1</sup> Florida law recognizes that there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford. Providing accommodations, including the acquisition by a housing authority of property to be used for or in connection with housing projects, are deemed exclusively public uses and purposes for which public money may be spent and private properties acquired and are governmental functions of public concern.<sup>2</sup> DEO does not monitor, evaluate, or have oversight of housing authorities to ensure that housing authorities are in compliance with federal law.

##### Local and Regional Housing Authorities

Florida law authorizes the creation of city, county and regional housing authorities.<sup>3</sup> Of the 106 housing authorities in Florida,<sup>4</sup> 91 are special districts.<sup>5</sup> A city's governing body may, by resolution, make a determination that there is a need for a housing authority. The determination of the need for a city housing authority may be initiated by the city's governing body or upon the filing of a petition signed by 25 city residents requesting the governing body to make such determination.<sup>6</sup> The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.<sup>7</sup> The powers of each housing authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners.<sup>8</sup>

The creation and powers of county housing authorities are similar to the creation and powers of city housing authorities. However, in counties, petitions must be signed by 25 county residents and the Governor appoints the commissioners.<sup>9</sup> A county housing authority's area of operation includes all of the county except that portion which lies within the territorial boundaries of any city as defined in the Housing Authorities Law. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit. In the case of regional housing authorities, the Governor also appoints the commissioners.<sup>10</sup> The powers of a regional housing authority are analogous to those of a city or county housing authority.

No commissioner or employee of an authority may acquire any interest in any housing project or in any property included or planned to be included in any project, nor in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If a commissioner or employee of a housing authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, he or she must immediately disclose such interest in writing to the authority. Failure to disclose such interest constitutes misconduct in office.<sup>11</sup>

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<sup>1</sup> Section 421.001, F.S.

<sup>2</sup> Section 421.02, F.S.

<sup>3</sup> See ss. 421.04, 421.27, and 421.28, F.S.

<sup>4</sup> U.S. Department of Housing and Urban Development, Public & Indian Housing, Florida, *available at* <http://www.hud.gov/offices/pih/pha/contacts/states/fl.cfm> (last accessed Mar. 19, 2015).

<sup>5</sup> Department of Economic Opportunity, Division of Community Development, Special District Information Program, *available at*, <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/report.cfm> (last accessed Mar. 19, 2015).

<sup>6</sup> Section 421.04, F.S.

<sup>7</sup> Section 421.05, F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 421.27, F.S.

<sup>10</sup> See s. 421.28, F.S.

<sup>11</sup> Section 421.06, F.S.

Housing authorities have the power to:<sup>12</sup>

- Sue and be sued.
- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Own, hold, and improve real or personal property.
- Acquire by the exercise of the power of eminent domain any real property.
- Invest any funds held in reserves or sinking funds.
- Organize for the purpose of creating a for-profit or not-for-profit corporation, limited liability company, or other similar business entity pursuant to all applicable laws of the state in which the housing authority may hold an ownership interest or participate in its governance in order to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects. These projects may include nonresidential uses and may use public and private funds to serve individuals or families who meet the applicable income requirements of the state or federal program involved.

A housing authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision may be acquired without its consent.<sup>13</sup>

A housing authority is authorized to borrow money or accept grants or other financial assistance from the Federal Government for or in aid of any housing projects within its area of operation. A housing authority is also empowered to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government. In addition, an authority is authorized “to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such authority.”<sup>14</sup>

## **Effect of Proposed Changes**

The bill creates a process by which a city and county housing authority, two city housing authorities and a county housing authority, or three city housing authorities may merge to form a consolidated housing authority.

### Creation

The bill authorizes housing authority commissioners from at least two, but no more than three city or county housing authorities of neighboring areas of operation within the same county to merge. Such authorities must declare by identical resolution, after a dedicated public hearing and two consecutive meetings where the resolution is heard, that there is a need for the merger and that the merger serves the best interest of tenants and communities.

Following the creation of the consolidated housing authority, each housing authority which participated in the merger will cease to exist except for the purpose of winding up its affairs and executing a deed to the consolidated housing authority if:

- all obliges of the merged housing authorities and parties to the contracts, bonds, notes, and other obligations agree to the substitution of the consolidated housing authority; and

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<sup>12</sup> Section 421.08, F.S.

<sup>13</sup> Section 421.12, F.S. *See* chapters 73 and ch. 74, F.S.

<sup>14</sup> Section 421.21, F.S.

- the commissioners of the merged housing authorities adopt a resolution consenting to the transfer of all of the rights, contracts, obligations, and property, real and personal, to the consolidated housing authority.

When any real property of a merged housing authority vests in a consolidated housing authority, the merged housing authority must execute a deed of property to the consolidated housing authority which will then file the deed with the county in which the property is located.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the consolidated housing authority, the authority must be conclusively deemed to have become created, established, and authorized to transact business and exercise its powers upon proof of the adoption of a resolution by the commissioners of each of the merged housing authorities creating the consolidated housing authority.

### Area of Operation

The area of operation of a consolidated housing authority includes the combined areas of operation of the merged housing authorities.

Governing bodies of counties or municipalities located within the area of operation of a consolidated housing authority must take into consideration, when determining whether dwelling accommodations are unsafe or insanitary, the safety and sanitation of the dwellings, the light and airspace available to residents, the degree of overcrowding, the size and arrangement of the rooms, and the extent to which conditions exist in buildings which endanger life or property by fire or other causes.

In connection with the issuance of bonds or the incurring of other obligations, a consolidated housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase of its area of operations.

No governing body of a county or municipality is permitted to adopt any resolution unless a public hearing has first been held.

### Commissioners

When two housing authorities merge to form a consolidated housing authority:

- three commissioners are appointed by the Governor, all of whom must be qualified electors in the area of operation of the newly consolidated housing authority;
- one commissioner is appointed by the mayor of the municipality in which a merged city housing authority is located; and
- one commissioner is appointed by either the mayor of the municipality in which a second merged city housing authority is located; or the chairman of the commission of the county in which a merged county authority is located.

When three housing authorities merge to form a consolidated housing authority:

- four commissioners are appointed by the Governor, all of whom must be qualified electors in the area of operation of the newly consolidated housing authority;
- two commissioners are appointed by the mayors of each of the municipalities in which two of the merged city housing authorities are located; and
- one commissioner is appointed by either the mayor of the municipality in which a third merged city housing authority is located; or the chairman of the commission of the county in which the merged county housing authority is located.

All commissioners appointed by a mayor, or county commission chairman must be qualified electors within the area of operation of the merged housing authority in which they are appointed from.

Three of the commissioners appointed by the Governor are designated to serve one, two, and three year terms respectively. The remaining commissioners are designated to serve for terms of four years each. Thereafter, all appointed commissioners serve four year terms.

The commissioners of a consolidated housing authority must elect a chairman and have the authority to hire employees and select officers.

#### Powers and Duties

A consolidated housing authority and its commissioners are granted the same functions, rights, powers, duties, privileges and immunities provided for housing authorities created for counties or municipalities. The commissioners of a consolidated housing authority also have the authority to select any appropriate corporate name.

The bill also amends ss. 421.32 and 421.321, F.S., making conforming changes.

#### B. SECTION DIRECTORY:

- Section 1: Creates s. 421.281, F.S., relating to the creation of consolidated housing authorities.
- Section 2: Amends s. 421.32, F.S., conforming a cross-reference.
- Section 3: Amends s. 421.321, F.S., conforming a cross-reference.
- Section 4: Provides an effective date of July 1, 2015.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

None.

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**