

## **HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS**

<b>BILL #:</b>	HB 1113	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Palm Beach County Housing Authority	112	Y's 1	N's
<b>SPONSOR(S):</b>	Silvers and Berman	<b>GOVERNOR'S ACTION:</b>		Vetoed
<b>COMPANION BILLS:</b>	N/A			

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### **SUMMARY ANALYSIS**

HB 1113 passed the House on February 14, 2018, and subsequently passed the Senate on March 8, 2018.

A municipality may create a housing authority to address either unsanitary or unsafe housing accommodations existing in the city or a shortage of safe and sanitary housing available to low income residents at an affordable rental rate. The governing body of the housing authority consists of five to seven persons appointed by the municipality's mayor and approved by its governing body. A county may create a housing authority subject to the same criteria, except the governing body of a county-created housing authority is appointed by the Governor.

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs." The Authority has a five-member board appointed by the Governor.

The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S.

The effective date of this bill would have been upon becoming a law; however, this bill was vetoed by the Governor on March 30, 2018.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

##### **Housing Authorities**

The governing body of each municipality containing more than 2,500 residents may create a housing authority by adopting a resolution.<sup>1</sup> The governing body of the municipality may determine a housing authority is needed by its own volition or upon receipt of a petition signed by 25 residents of the city declaring the need for an authority.<sup>2</sup> The resolution creating the housing authority must contain a finding that either unsanitary or unsafe housing accommodations exist in the city or that there is a shortage of safe and sanitary housing available to low income residents at an affordable rental rate.<sup>3</sup> The governing body of the municipality may consider overcrowding, percentage of land coverage, the availability of light, air, and space, the size and arrangement of rooms, sanitary facilities, and building conditions, which present a fire hazard or other danger to life or property.<sup>4</sup>

After adoption of a resolution creating the housing authority, the mayor of the municipality appoints five to seven commissioners<sup>5</sup> to the housing authority, subject to approval of the governing body of the municipality. The term of a commissioner is four years and no commissioner may be an officer or employee of the municipality creating the housing authority. Commissioners receive no compensation, but are entitled to necessary expenses, including travel expenses, incurred in the discharge of their official duties.<sup>6</sup>

At least one commissioner must be a current resident of a housing project or a person of low or very low income who lives in the housing authority's service area and receives a rent subsidy through the housing authority or a public housing agency with an overlapping service area.<sup>7</sup> If there are no completed housing projects in the authority's service area, the tenant-commissioner position must remain vacant until 10 percent of the housing units in the first housing project are occupied. If the tenant-commissioner ceases to be a tenant, the position becomes vacant and a replacement commissioner is appointed for the unexpired portion of the tenant-commissioner's term. If no current tenant is willing and able to serve as a tenant-commissioner, the mayor may appoint a commissioner using normal procedures, but must exercise due diligence in all succeeding vacancies to appoint a tenant-commissioner at the earliest date possible.

The commissioners of a housing authority may select their own officers, hire employees (including, but not limited to, an executive director and technical experts), and request legal assistance from the city attorney or employ their own legal staff.<sup>8</sup> Commissioners and housing authority employees are prohibited from acquiring any interest in a housing project or in a contract to provide services or materials to a housing project.<sup>9</sup> If a commissioner or housing authority employee holds an interest, that interest must be disclosed to the housing authority in writing and entered into the minutes.

A housing authority has the power to:<sup>10</sup>

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<sup>1</sup> Section 421.04(1), F.S. Section 421.03(2), F.S., defines a city for the purposes of Housing Authorities Law as any city or town having a population of more than 2,500 as of the most recent state or federal census.

<sup>2</sup> Section 421.04(1)(a), F.S.

<sup>3</sup> Section 421.04(2), F.S.

<sup>4</sup> Section 421.04(2)(b), F.S.

<sup>5</sup> Some housing authorities created before March 28, 1991, have more than seven commissioners. Those authorities may keep the number of commissioners they had as of March 28, 1991. Section 421.05(3), F.S.

<sup>6</sup> Section 421.05(1), F.S.

<sup>7</sup> *Id.* This commissioner is referred to as a "tenant-commissioner."

<sup>8</sup> Section 421.05(2), F.S.

<sup>9</sup> Section 421.06, F.S.

<sup>10</sup> Section 421.08, F.S.

- Prepare, carry out, acquire, lease, and operate housing projects;<sup>11</sup>
- Construct, reconstruct, improve, alter, or repair any housing project;
- Arrange or contract for the provision of services, works, and facilities in connection with a housing project;
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced by any housing project;
- Establish and revise rents or charges for housing project properties;
- Investigate housing conditions within its area of operation and determine the existence of slums;
- Organize a corporate entity to hold an ownership interest or participate in the governance of multifamily or single-family residential projects; and
- Execute contracts and other instruments necessary to exercise the powers of the authority.

Housing authorities can finance projects through the issuance of debentures.<sup>12</sup> The debentures may be paid from the income and revenues of housing projects operated by the authority, federal grant money used to aid in the housing project for which the debenture is issued, or from the authority's general revenue. The debentures are obligations of the authority and are not a debt of the city, county, state, or any other political subdivision.<sup>13</sup> Housing authorities may also receive aid from the federal government in the form of loans, grants, and the ability to take over, lease, or manage housing projects constructed by the federal government.<sup>14</sup>

The governing body of a county may also create a housing authority following the same procedure required for the creation of a municipal housing authority under s. 421.04, F.S.<sup>15</sup> A county housing authority may operate in any unincorporated area of the county.<sup>16</sup> The governing body of a county housing authority consists of five to seven qualified electors of the county appointed by the Governor, who may be removed or suspended in the same manner and for the same reasons as other officers appointed by the Governor.<sup>17</sup>

### Palm Beach County Housing Authority

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs."<sup>18</sup> The Authority acquired its first property in 1973, placed its first tenant in a public housing unit in 1975, and received its first application for a Section 8 voucher in 1976.<sup>19</sup> The Authority has a five-member board appointed by the Governor and meets on the fourth Monday of each month.<sup>20</sup> At the conclusion of the 2016 fiscal year, the Authority had \$18,675,065 in assets and \$16,253,007 in liabilities.<sup>21</sup>

### Effect of the Bill

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<sup>11</sup> A "housing project" is defined as any work or undertaking to remove building in a slum area, to provide decent, safe, and sanitary living accommodations, or a combination of the two. Section 421.03(9), F.S.

<sup>12</sup> Section 421.14, F.S. A debenture is a debt instrument secured by only the debtor's earning power, without a lien on any specific asset. Black's Law Dictionary (10th ed. 2014).

<sup>13</sup> Section 421.14(2), F.S.

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

<sup>15</sup> Section 421.27(1), F.S.

<sup>16</sup> Section 421.27(3), F.S.

<sup>17</sup> Section 421.27(2), F.S.

<sup>18</sup> Palm Beach County Housing Authority, *About Us*, <http://www.pbchafl.org/about-us> (last accessed Jan. 9, 2018).

<sup>19</sup> Palm Beach County Housing Authority, *History*, <http://www.pbchafl.org/about-us/history> (last accessed Jan. 9, 2018).

<sup>20</sup> See Palm Beach County Housing Authority, *Board of Commissioners*, <http://www.pbchafl.org/about-us/pbcha-board-of-commissioners> (last accessed Jan. 9, 2018). See also s. 421.27(2), F.S. (providing for gubernatorial appointment of board members for county housing authorities). Palm Beach County Housing Authority, *Board Meetings*, <http://www.pbchafl.org/pbcha-board-of-commissioners/pbcha-board-of-commissioners/board-meetings> (last accessed Jan. 9, 2018).

<sup>21</sup> Palm Beach County Housing Authority, *Basic Financial Statements and Supplement Information (Year Ended September 30, 2016)*, at 9, available at <http://www.pbchafl.org/docs-handler.ashx?f=pbcha-audited-financials-fy2016.pdf> (last accessed Jan. 10, 2018)

The bill creates an exception to general law. The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S.

## **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. ECONOMIC IMPACT STATEMENT FILED?** Yes [x] No []

**D. NOTICE PUBLISHED?** Yes [x] No []

IF YES, WHEN? November 10, 2017

WHERE? *The Palm Beach Post*, a daily newspaper of general circulation in Palm Beach County, Florida.

**E. REFERENDUM(S) REQUIRED?** Yes [] No [x]

IF YES, WHEN?: