

## **BILL ANALYSIS**

Senate Research Center  
77R1074 KEL/QS-D

S.B. 322  
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Intergovernmental Relations  
3/29/2001  
As Filed

### **DIGEST AND PURPOSE**

Under current state law, the Sunset Advisory Commission is charged with reviewing state agencies on a periodic schedule. During the interim of the 76th Texas Legislature, the Sunset Advisory Commission conducted a standard review of the Texas Department of Housing and Community Affairs (department) and made certain recommendations in a legislative report. As proposed, S.B. 322 continues the department for another two years and enacts some of the Sunset Commission's recommendations relating to the continuation and functions of the department and to other matters relating to housing or community development, including the creation of the Manufactured Housing board and the Office of Rural Community Affairs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the governing board of the Texas Department of Housing and Community Affairs in SECTION 5 (Section 2306.032, Government Code), SECTION 6 (Section 2306.0321, Government Code), and SECTION 35 (Section 7, Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.)) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs (department) in SECTION 18 (Section 2306.1711, Government Code), and to the department in conjunction with the state Commission on Human Rights in SECTION 21 (Section 2306.257, Government Code) of this bill.

Rulemaking authority is expressly granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTION 26 (Sections 2306.6020 and 2306.6023, Government Code) of this bill.

Rulemaking authority is expressly granted to the executive committee of the Office of Rural Community Affairs (office) in SECTION 29 (Section 487.052, Government Code) and to the office in SECTION 30 (Section 487.101, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2306.001, Government Code, to provide that one of the purposes of the Texas Department of Housing and Community Affairs (department) is to serve as a source of information to the public regarding all affordable housing resources and community support services in the state.

SECTION 2. Amends Section 2306.021(b), Government Code, to provide that the department is composed of any other division created by the director under Section 2306.0521. Deletes text regarding the community development division.

SECTION 3. Amends Chapter 2306B, Government Code, by amending Sections 2306.022, 2306.024, 2306.025, 2306.027, and 2306.033-2306.035 and adding Section 2306.028, as follows:

Sec. 2306.022. Provides that, unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2003, rather than 2001.

Sec. 2306.024. Provides that the governing board of the department (board) consists of seven public (rather than nine) members appointed by the governor.

Sec. 2306.025. Provides that the terms of two or three members expire on January 31 of each odd-numbered year.

Sec. 2306.027. (a) Requires the governor to appoint to the board public members who have a demonstrated interest in issues related to housing and community support services. Requires a person appointed to the board to be a registered voter in the state and prohibits the person from holding another public office. Deletes text regarding individuals representing institutions, local government, housing construction, community-based nonprofit housing organizations, realtors or housing developers, individuals and families of low or very low income, and public members

(b) Requires appointments to the board to be made without regard to the race, color, disability (rather than handicap) sex, religion, age, or national origin of the appointees and to be made in a manner that produces representation on the board of the different geographical regions of this state. Requires appointments to the board to broadly reflect the economic, cultural, and social diversity of the state, including ethnic minorities and women. Deletes text regarding 2306.026.

(c) Prohibits a person from being a member of the board under certain conditions. Deletes text regarding place 2 on the board.

Sec. 2306.028. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of the board from voting, deliberating, or being counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) Sets forth requirements regarding the information provided by the training program.

(c) Provides that a person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 2306.033. Sets forth guidelines regarding grounds for removal from the board. Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists. Sets forth guidelines regarding notification of potential grounds for removal from the board.

Sec. 2306.034. (a) Deletes text prohibiting certain persons from being a member of the board or an employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. Redesignates text from current Subsection (b) and redefines "Texas trade association."

(b) Prohibits a person from being a member of the board and from being a department 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, under certain conditions.

Sec. 2306.035. Prohibits a person from being (rather than serving as) a member of the board or acting as the director of the department or the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the department.

SECTION 4. Amends Section 2306.030(a), Government Code, to require the governor to designate a member of the board (rather than appoint a presiding officer from the board members) as the presiding officer of the board to serve in that capacity at the will of the governor.

SECTION 5. Amends Section 2306.032, Government Code, by adding Subsections (c)-(g), as follows:

(c) Requires all materials in the possession of the department that are relevant to a matter proposed for discussion at a board meeting to be sent to interested parties, posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

(d) Requires the materials described by Subsection (c) to be made available to the public as required by Subsection (c) by a certain date. Prohibits the board from considering at the meeting any material that is not made available to the public by the date required by this subsection.

(e) Requires the agenda for a board meeting to state each project the staff is recommending for assistance by the department.

(f) Requires the board, for each item on the board's agenda at the meeting, to provide for public comment after the staff presentation on that topic.

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

SECTION 6. Amends Chapter 2306B, Government Code, by adding Section 2306.0321, as follows:

Sec. 2306.0321. **APPEAL OF BOARD DECISIONS.** (a) Requires the board to adopt rules outlining a formal process for appealing board decisions. Requires the rules to specify certain requirements for appealing a board decision.

SECTION 7. Amends Chapter 2306C, Government Code, by adding Sections 2306.051, 2306.0521, and 2306.057, as follows:

Sec. 2306.051. **SEPARATION OF RESPONSIBILITIES.** Requires the board to develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department.

Sec. 2306.0521. **ORGANIZATIONAL FLEXIBILITY OF DEPARTMENT.**  
Authorizes the director, with the approval of the board, notwithstanding Section 2306.021(b) or any other provision of this chapter, to perform certain functions.  
Provides that this section does not apply to the manufactured housing division.

Sec. 2306.057. **COMPLIANCE ASSESSMENT REQUIRED FOR PROJECT APPROVAL BY BOARD.** Requires the department, through the division with responsibility

for compliance matters, before the board approves any project application submitted under this chapter, to perform certain functions. Requires the written report described by Subsection (a)(2) to be included in the applicable project file for board and department review. Requires the board to fully document and disclose any instances in which the board approves a project application despite an adverse compliance history associated with the project or the applicant.

SECTION 8. Amends Section 2306.052, Government Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Requires the director to develop and implement the policies established by the board that define the responsibilities of each division in the department. Deletes text regarding the director, board, and staff of the department, the community affairs division, and the housing finance division.

(e) Requires the director to develop and implement a program to train employees on the public information requirements of Chapter 552 and to monitor the compliance of employees with those requirements.

SECTION 9. Amends Chapter 2306D, Government Code, by amending Section 2306.061 and adding Sections 2306.0631 and 2306.078, as follows:

Sec. 2306.061. New heading: STANDARDS OF CONDUCT. Requires the director or the director's designee to become aware of and provide to members of the board and to department employees, as often as necessary, certain information. Makes conforming changes.

Sec. 2306.0631. STATE EMPLOYEE INCENTIVE PROGRAM. Requires the director or the director's designee to provide to department employees information and training on the benefits and methods of participation in the state employee incentive program under Chapter 2108B.

Sec. 2306.078. PROJECT COMPLIANCE; DATABASE. (a) Requires the department, through the division responsible for compliance matters, to monitor for compliance with all applicable requirements the entire construction phase associated with any project under this chapter. Requires the monitoring level for each project to be based on the amount of risk associated with the project.

(b) Requires the department, after completion of a project's construction phase, to periodically review the performance of the project to confirm the accuracy of the department's initial compliance evaluation during the construction phase.

(c) Requires the department to use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each project.

(d) Requires the department to create an easily accessible database that contains all project compliance information developed under this chapter.

SECTION 10. Amends Sections 2306.066(b) and (c), Government Code, as follows:

(b) Requires the department to maintain a file on (rather than keep information about) each written complaint filed with the department. Deletes text regarding the department's authority. Sets forth requirements for the file.

(c) Requires the department to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and

procedures relating to complaint investigation and resolution. Requires the department, 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. Makes conforming changes.

SECTION 11. Amends Section 2306.0661, Government Code, as follows:

Sec. 2306.0661. (a) Provides that, except as provided by Subsection (b), this section applies only to certain programs and plans.

(b) Requires the department to encourage informed and effective public participation in the department's programs and plans by (rather than through) holding, on an annual basis in each uniform service region of the state, a consolidated public hearing in which the board solicits and accepts public comments regarding certain programs.

(c) No changes in text.

(d) Deletes text regarding the department, in scheduling a hearing, making a reasonable effort to inform interested persons and organizations of the hearing. Makes a conforming change.

(e) Requires, at least six weeks before the date of the hearing, all materials in the possession of the department that are relevant to a matter proposed for discussion at a consolidated public hearing under this section to be sent to interested persons and organizations, posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

SECTION 12. Amends Section 2306.067, Government Code, by adding Subsection (d), to authorize the director to enter into an agreement with the manufactured housing division to loan or assign department employees, equipment, and facilities to that division.

SECTION 13. Amends Section 2306.0721, Government Code, by amending Subsection (c) and adding Subsection (f), as follows:

(c) Requires the plan to include certain estimates, analyses, inventories, information, and summaries. Makes conforming changes.

(f) Authorizes the director to subdivide the uniform state service regions as necessary for purposes of the state low income housing plan.

SECTION 14. Amends Section 2306.0722, Government Code, to require the department, under certain conditions, to meet with regional planning commissions created under Chapter 391 (Regional Planning Commissions), Local Government Code. Requires the director, in preparing the annual report under Section 2306.072 and the state low income housing plan under Section 2306.0721, to use the most recent census data combined with existing data from local housing and community service providers in the state, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies.

SECTION 15. Amends Section 2306.0723(a), Government Code, to delete text requiring public hearings to be held in Dallas or Fort Worth, El Paso, Houston, San Antonio, the Lower Rio Grande Valley, and at least two additional municipalities selected by the department to represent geographically diverse communities.

SECTION 16. Amends Section 2306.111, Government Code, by amending Subsection (d) and adding Subsection (g), as follows:

(d) Requires the department to allocate certain funds and commitments to each uniform state service region based on a formula developed by the department that is based on the need for housing assistance and the availability of housing resources, provided that the allocations are consistent with applicable federal and state requirements and limitations. Requires the department to use the information contained in its annual state low income housing plan to develop the formula.

(g) Requires the department, for each uniform state service region, to establish funding priorities to ensure that certain conditions are met.

SECTION 17. Amends Chapter 2306F, Government Code, by adding Sections 2306.1111 and 2306.1112, as follows:

Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLE.

Requires the department, notwithstanding any other state law and to the extent consistent with federal law, to establish a uniform application and funding cycle for multifamily housing programs administered by the department under this chapter. Requires the department, wherever possible, to use uniform threshold requirements for multifamily housing program applications.

Sec. 2306.1112. EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE.

Requires the department to establish an executive award and review advisory committee to make recommendations to the board regarding funding and allocation decisions. Sets forth guidelines regarding the members and functions of the advisory committee. Provides that the advisory committee is not subject to Chapter 2110.

SECTION 18. Amends Chapter 2306H, Government Code, by adding Section 2306.1711, as follows:

Sec. 2306.1711. RULEMAKING PROCEDURES FOR CERTAIN PROGRAMS.

Requires the department to adopt rules outlining formal rulemaking procedures for the low income housing tax credit program and the multifamily housing mortgage revenue bond program in accordance with Chapter 2001. Sets forth requirements for adopted rules. Requires the department to provide for public input before adopting rules for programs with requests for proposals and notices of funding availability.

SECTION 19. Amends Chapter 2306H, Government Code, by adding Section 2306.185, as follows:

Sec. 2306.185. PRESERVATION OF AFFORDABILITY THROUGH ALLOCATION OF CERTAIN TAX CREDITS AND BONDS. (a) Requires the department to dedicate a certain amount of department allocations of low income housing tax credits, private activity bonds, and qualified 501(c)(3) bonds to preserving affordable multifamily housing

developments. Requires any additional amount set aside by the department for preservation of those developments to be determined through the department's public hearing process under Subchapter D.

(b) Requires the department to modify existing scoring systems or develop new scoring systems for certain purposes.

SECTION 20. Amends Section 2306.252, Government Code, by amending Subsection (b) and adding Subsections (d)-(g), as follows:

(b) Requires the center to provide educational material prepared in plain language to housing advocates, housing sponsors, borrowers, and tenants and to serve as a housing and community services clearinghouse to provide certain information to certain parties.

(e) Requires the center to compile the department's reports into an integrated format and to compile and maintain a list of all affordable housing resources in the state, organized by community.

(f) Requires the information required under Subsections (d) and (e) to be readily available in certain formats.

(g) Requires the center to provide information regarding the department's housing and community affairs programs to the Texas Information and Referral Network for inclusion in the statewide information and referral network as required by Section 531.0312.

SECTION 21. Amends Chapter 2306K, Government Code, by adding Sections 2306.256 and 2306.257, as follows:

Sec. 2306.256. AFFORDABLE HOUSING PRESERVATION PROGRAM. Requires the department to develop and implement a program to preserve affordable housing in this state. Sets forth requirements for the program.

Sec. 2306.257. APPLICANT COMPLIANCE WITH STATE AND FEDERAL LAWS PROHIBITING DISCRIMINATION: CERTIFICATION AND MONITORING. (a) Authorizes the department to provide assistance through a housing program under this chapter only to an applicant who certifies the applicant's compliance with certain laws.

(b) Requires the department, in conjunction with the state Commission on Human Rights, to adopt certain rules governing the certification process described by this section.

(c) Authorizes sanctions imposed under Subsection (b)(3) to include certain items and to be imposed in addition to any action taken by the state Commission on Human Rights.

(d) Requires the department to promptly notify the state Commission on Human Rights if the department determines that a program participant may have failed to comply with the laws listed by Subsection (a).

SECTION 22. Amends Sections 2306.358(a), (a-1), and (b), Government Code, as follows:

(a) Deletes text regarding the allocation of at least 50 percent of the total annual issuance amount for new construction or acquisition with substantial rehabilitation. Makes conforming changes. Deletes text defining "substantial rehabilitation."

(a-1) Makes a nonsubstantive change.

(b) Requires the department and the Bond Review Board to review the memorandum of understanding annually to determine the specific amount of bonds to be issued in each fiscal year.

SECTION 23. Amends the heading to Chapter 2306Z, Government Code, to read as follows:

#### SUBCHAPTER Z. COLONIAS

SECTION 24. Amends Chapter 2306Z, Government Code, by amending Sections 2306.584 and 2306.585 and adding Sections 2306.590 and 2306.591, as follows:

Sec. 2306.584. New heading: COLONIA RESIDENT ADVISORY COMMITTEE. Requires the department to appoint not fewer than five persons who are residents of colonias to serve on a colonia resident advisory committee. Makes a conforming change.

Sec. 2306.585. New heading: DUTIES OF ADVISORY COMMITTEE. Makes conforming changes.

Sec. 2306.590. COLONIA INITIATIVES ADVISORY COMMITTEE. Requires the department to establish a colonia initiatives advisory committee that is composed of certain members appointed by the department. Requires each member of the colonia initiatives advisory committee other than the public member to reside within 100 miles of the international border of this state. Requires the colonia initiatives advisory committee to perform certain functions.

Sec. 2306.591. BIENNIAL ACTION PLAN. (a) Requires the office established by the department to promote initiatives for colonias (office) to prepare a biennial action plan addressing certain issues.

(b) Requires the office to solicit public comments regarding the plan at a public hearing. Sets forth guidelines regarding publishing an initial and final draft of the plan.

(c) Requires the office to send the final plan to the colonia initiatives advisory committee for review and comment. Requires the office, after receiving comments, to send the plan to the board for final approval, with the comments of the colonia initiatives advisory committee attached to the plan.

SECTION 25. Amends Section 2306.589(c), Government Code, to authorize the department to use money in the colonia set-aside fund for specific activities that assist colonias, including reimbursement of colonia resident advisory committee members and colonia initiatives advisory committee members for their reasonable expenses in the manner provided by Chapter 2110 (rather than Article 6252-33, Revised Statutes), or the General Appropriations Act.

SECTION 26. Amends Chapter 2306AA, Government Code, as follows:

#### SUBCHAPTER AA. MANUFACTURED HOUSING DIVISION

Sec. 2306.6001. Redesignated from Section 2306.601. DEFINITIONS. Defines “division,” “division director,” and “manufactured housing board.”

Sec. 2306.6002. Makes conforming changes.

Sec. 2306.6003. MANUFACTURED HOUSING BOARD. Provides that the Manufactured Housing Board (MHB) is an independent entity within the department, is administratively attached to the department, and is not an advisory body to the department. Requires MHB to carry out the functions and duties conferred on MHB by this subchapter and by other law.

Sec. 2306.6004. MANUFACTURED HOUSING BOARD MEMBERSHIP. Provides that MHB consists of five public members appointed by the governor. Sets forth eligibility requirements for MHB. Sets forth prohibitions concerning eligibility. Requires appointments to MHB to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.



Sec. 2306.6005. CONFLICT OF INTEREST. Defines "Texas trade association" under this section. Prohibits a person from being a member of MHB and from being a division 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, under certain conditions. Prohibits a person from being a member of MHB or acting as the general counsel to MHB or the division under certain conditions.

Sec. 2306.6006. TERMS; VACANCY. Sets forth guidelines regarding the terms of the members of MHB and vacancies on MHB.

Sec. 2306.6007. PRESIDING OFFICER. Requires the governor to designate a member of MHB as the presiding officer of MHB to serve in that capacity at the will of the governor.

Sec. 2306.6008. GROUNDS FOR REMOVAL. Sets forth guidelines regarding the grounds for removal from MHB and notification of potential grounds for removal. Provides that the validity of an action of MHB is not affected by the fact that it is taken when a ground for removal of a board member exists.

Sec. 2306.6009. PER DIEM; REIMBURSEMENT. Provides that each member of MHB is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of MHB. Sets forth guidelines concerning reimbursement for certain expenses.

Sec. 2306.6010. MEETINGS. Sets forth guidelines regarding MHB meetings.

Sec. 2306.6011. TRAINING. Prohibits a person who is appointed to and qualifies for office as a member of MHB from voting, deliberating, or being counted as a member in attendance at a meeting of MHB until the person completes a training program that complies with this section. Sets forth guidelines for information included in the training program. Provides that a person appointed to MHB is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 2306.6012. APPROPRIATIONS; DONATIONS. Requires the legislature to separately appropriate money to MHB within the appropriations to the department for all matters relating to the operation of the division. Authorizes MHB to accept gifts and grants of money or property under this subchapter and requires MHB to spend the money and use the property for the purpose for which the donation was made, with certain exceptions.

Sec. 2306.6013. BUDGET; SHARING OF DEPARTMENT PERSONNEL, EQUIPMENT, AND FACILITIES. Requires MHB to develop a budget for the operations of the department relating to the division. Requires MHB to reduce administrative costs by entering into an agreement with the department to enable the sharing of department personnel, equipment, and facilities.

Sec. 2306.6014. DIVISION DIRECTOR. Requires MHB to employ the division director. Provides that the division director is MHB's chief executive and administrative officer. Provides that the division director is charged with administering, enforcing, and carrying out the functions and duties conferred on the division director by this subchapter and by other law. Provides that the division director serves at the pleasure of MHB.

Sec. 2306.6015. Redesignated from existing 2306.602. Authorizes the division director to employ staff as necessary to perform the work of the division and to prescribe their duties and compensation. Makes a conforming change.

Sec. 2306.6016. SEPARATION OF RESPONSIBILITIES. Requires MHB to develop and implement policies that clearly separate the policy-making responsibilities of MHB and the management responsibilities of the division director and staff of the division.

Sec. 2306.6017. STANDARDS OF CONDUCT. Requires the division director or the division director's designee to provide to members of MHB and to division employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 2306.6018. EQUAL EMPLOYMENT OPPORTUNITY. Requires the division director or the division director's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin and requires the statement to include certain items and meet certain requirements.

Sec. 2306.6019. STATE EMPLOYEE INCENTIVE PROGRAM. Requires the division director or the division director's designee to provide to division employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Sec. 2306.6020. Redesignated from existing Section 2306.603. Requires MHB, rather than the director, to adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the division. Makes conforming changes.

Sec. 2306.6021. PUBLIC PARTICIPATION. Requires MHB to develop and implement policies that provide the public with a reasonable opportunity to appear before MHB and to speak on any issue under the jurisdiction of the division.

Sec. 2306.6022. COMPLAINTS. Requires the division to maintain a file on each written complaint filed with the division and requires the file to include certain items. Requires the division to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the division's policies and procedures relating to complaint investigation and resolution. Requires the division, 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.

Sec. 2306.6023. Redesignated from existing Section 2306.604. Makes conforming changes, including transferring to MHB rulemaking authority previously granted to the director. Requires MHB, rather than the governing board of the department (board), to assess certain administrative penalties. Requires the division director to give notice of MHB's order to the person charged. Requires the notice of MHB's order to the person charged to include a statement of the right of the person charged to judicial review of MHB's, rather than the commission's, order. Requires the person charged, by a certain date, if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty, to forward the amount assessed to the division, rather than the department, for deposit in an escrow account. Makes conforming changes.

Deletes existing Section 2306.605 regarding the acceptance of donations.

SECTION 27. Amends Chapter 2306DD, Government Code, by amending Sections 2306.672 and 2306.675 and adding Sections 2306.6741, 2306.6751, and 2306.6761, as follows:

Sec. 2306.672. SCORING OF APPLICATIONS. Requires the department, in allocating low

income housing tax credits, to score each application using a point system based on certain stated criteria adopted by the department that are consistent with the department's housing goals. Requires the board, on awarding tax credit allocations, to document the reasons for each project's selection, including an explanation of the reasons for any decision that conflicts with the recommendations of department staff under Section 2306.675. Requires the department, for each scoring criterion, to use a range of points to evaluate the degree to which a proposed project satisfies the criterion. Prohibits the department from awarding a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion.

**Sec. 2306.6741. DEPARTMENT POLICY AND PROCEDURES REGARDING RECIPIENTS OF CERTAIN FEDERAL HOUSING ASSISTANCE.** (a) Requires the department to adopt a policy regarding the admittance to low income housing tax credit properties of income-eligible individuals and families receiving assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(b) Requires the policy to provide a reasonable minimum income standard to be used by recipients of low income housing tax credits and to place reasonable limits on the use of any other factors that frequently impede the admittance of individuals and families described by Subsection (a) to low income housing tax credit properties, including credit histories, security deposits, and employment histories.

(c) Requires the department to establish procedures to monitor low income housing tax credit properties that frequently refuse to admit individuals and families described by Subsection (a). Requires the department to establish enforcement mechanisms with respect to those properties, including a range of sanctions to be imposed against the owners of those properties.

**Sec. 2306.675. ALLOCATION OF LOW INCOME HOUSING TAX CREDIT.** (a) Requires department staff to provide written, documented recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits. Prohibits the board from making without good cause an allocation decision that conflicts with the recommendations of department staff.

(b) Requires the board, by a certain date, to issue a commitment for tax credits available to the department. Requires the board, concurrently with the issuance of a commitment for initial tax credits, to establish a waiting list of additional applications, ranked in descending order of priority, to be issued a commitment for tax credits if additional credits become available.

(c) Requires the board to reevaluate a project that undergoes a substantial change between the time of initial board approval and the time of issuance of a tax credit commitment for the project to determine if approval should be withdrawn.

**Sec. 2306.6751. LIMITATION ON ALLOCATION.** Prohibits the department, for any three-year period, from awarding more than \$2.4 million in low income housing tax credits to a single developer and other principals associated with the developer's project.

**Sec. 2306.6761. QUALIFIED NONPROFIT ORGANIZATION.** Authorizes a qualified nonprofit organization to compete in any low income housing tax credit allocation pool, including certain stated pools. Requires a qualified nonprofit organization submitting an application under this subchapter to have a controlling interest in the project proposed to be financed with a low income housing tax credit.

SECTION 28. Amends Sections 2306.673(a) and (c), Government Code, to make conforming changes.

SECTION 29. Amends Title 4F, Government Code, by adding Chapter 487, as follows:

CHAPTER 487. OFFICE OF RURAL COMMUNITY AFFAIRS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 487.001. DEFINITIONS. Defines "executive committee" and "office."

[Reserves Sections 487.002-487.020 for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 487.021. EXECUTIVE COMMITTEE. Sets forth guidelines and requirements regarding the executive committee (executive committee) of the Office of Rural Community Affairs (office).

Sec. 487.022. CONFLICTS OF INTEREST. Defines "Texas trade association" under this section. Prohibits a person from being a member of the executive committee and from being an office 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, under certain conditions. Prohibits a person from being a member of the executive committee or acting as the general counsel to the executive committee or the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Sec. 487.023. TRAINING FOR MEMBERS OF EXECUTIVE COMMITTEE. Prohibits a person who is appointed to and qualifies for office as a member of the executive committee from voting, deliberating, or being counted as a member in attendance at a meeting of the executive committee until the person completes a training program that complies with this section. Sets forth guidelines for the training program. Provides that a person appointed to the executive committee is entitled to reimbursement, as provided by general law and the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 487.024. REMOVAL. Sets forth grounds for a member's removal from the executive committee. Provides that the validity of an action of the executive committee is not affected by the fact that it is taken when a ground for removal of an executive committee member exists. Sets forth guidelines regarding notification of potential grounds for removal.

Sec. 487.025. DIVISION OF RESPONSIBILITY. Requires the executive committee to develop and implement policies that clearly separate the policy-making responsibilities of the executive committee and the management responsibilities of the executive director and staff of the office.

Sec. 487.026. EXECUTIVE DIRECTOR. Authorizes the executive committee to hire an executive director to serve as the chief executive officer of the office and to perform the administrative duties of the office. Provides that the executive director serves at the will of the executive committee. Authorizes the executive director to hire staff within guidelines established by the executive committee.

Sec. 487.027. PUBLIC HEARINGS. Requires the executive committee to develop and implement policies that provide the public with a reasonable opportunity to appear before the executive committee and to speak on any issue under the jurisdiction of the office.

Sec. 487.028. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. Sets forth guidelines regarding the preparation and maintenance of a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

Sec. 487.029. STANDARDS OF CONDUCT. Requires the executive director or the executive director's designee to provide to members of the executive committee and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 487.030. COMPLAINTS. Requires the office to maintain a file on each written complaint filed with the office and requires the file to include certain items. Requires the office to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution. Requires the office, 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.

[Reserves Sections 487.031-487.050 for expansion]

#### SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 487.051. POWERS AND DUTIES. Sets forth guidelines regarding the powers and duties of the office.

Sec. 487.052. RULES. Authorizes the executive committee to adopt rules as necessary to implement this chapter.

Sec. 487.053. GIFTS AND GRANTS. Authorizes the office to accept gifts, grants, and donations from any organization for the purpose of funding any activity under this chapter. Requires all gifts, grants, and donations to be accepted in an open meeting by a majority of the voting members of the executive committee and reported in the public record of the meeting with the name of the donor and purpose of the gift, grant, or donation.

Sec. 487.054. REPORT TO LEGISLATURE. Requires the office, by a certain date, to submit a biennial report to the legislature regarding the activities of the office and any findings and recommendations relating to rural issues.

SECTION 30. Transfers Sections 2306.098, 2306.099, and 2306.100, Government Code, to Chapter 487, Government Code, redesignates them as Chapter 487D, Government Code, and amends them as follows:

#### SUBCHAPTER D. COMMUNITY DEVELOPMENT BLOCK GRANT NONENTITLEMENT PROGRAM

Sec. 487.101. Redesignated from existing Section 2306.098. Requires the office, rather than the department, under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35) and 24 CFR, Part 570, Subpart I, to administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

Requires community development block grant program funds to be allocated to eligible counties and municipalities under office, rather than department, rules.

Sec. 487.102. Redesignated from existing Section 2306.099. Authorizes the office, rather than the department, to enter into an interagency agreement with the Texas Department of Economic Development (rather than the Texas Department of Commerce) to reimburse the Texas Department of Economic Development for certain purposes. Makes conforming changes.

Sec. 487.103. Redesignated from existing Section 2306.100. Requires the State Development Review Committee to meet at least twice annually at the executive director's call. Makes conforming changes.

SECTION 31. Amends Section 531.0312, Government Code, by adding Subsection (d) to require the Texas Department of Housing and Community Affairs (department) to provide the Texas Information and Referral Network with information regarding the department's housing and community affairs programs for inclusion in the statewide information and referral network. Requires the department to provide the information in a form determined by the commissioner and to update the information at least quarterly.

SECTION 32. Amends Section 1372.023, Government Code, as follows:

Sec. 1372.023. New heading: DEDICATION OF PORTIONS OF STATE CEILING TO TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS. Provides that, until August 25, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds, an amount to be determined by the Bond Review Board is available exclusively to the Texas Department of Housing and Community Affairs (department) for the purpose of issuing qualified residential rental project bonds. Prohibits the department from reserving a portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds other than the portion dedicated to the department under this section.

SECTION 33. Amends Section 1372.025(b), Government Code, to provide that Subsection (a) does not apply to qualified mortgage bonds or qualified residential rental project bonds made available exclusively to the Texas Department of Housing and Community Affairs under Section 1372.023.

SECTION 34. Amends Sections 3(3), (7), and (8), Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), to redefine "board," "department," and "director."

SECTION 35. Amends Section 7, Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), by amending Subsections (g) and (k) and adding Subsections (t)-(aa), as follows:

(g) Authorizes the governing board (board) of the Texas Department of Housing and Community Affairs (department) by rule to adopt a system under which licenses expire on various dates during the year. Requires the department, for the year in which the license expiration date is changed, to prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. Provides that, on renewal of the license on the new expiration date, the total license renewal fee is payable.

(k) Authorizes the department to place on probation a person whose license is suspended. Authorizes the department, if a license suspension is probated, to require the person to perform certain functions.

(t) Prohibits a person whose license has expired from engaging in activities that require a

license until the license has been renewed.

(u) Authorizes a person whose license has been expired for 90 days or less to renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(v) Authorizes a person whose license has been expired for more than 90 days but less than one year to renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(w) Prohibits a person whose license has been expired for one year or more from renewing the license. Authorizes the person to obtain a new license by complying with the requirements and procedures for obtaining an original license.

(x) Authorizes a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application to obtain a new license without fulfilling the instruction requirements of Subsection (o). Requires the person to pay to the department a fee that is equal to two times the normally required renewal fee for the license.

(y) Requires the department, by a certain date, to send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

(z) Authorizes the board to waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(aa) Authorizes the board to waive any prerequisite to obtaining a license for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement. Authorizes the board to make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

SECTION 36. Amends the Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.) by adding a new Section 7A and redesignating the existing Section 7A as Section 7B and amending that section as follows:

Sec. 7A. PROVISIONAL LICENSE. Sets forth guidelines regarding the issuance of provisional licenses.

Sec. 7B. Redesignated from existing Section 7A. Authorizes the department, rather than the director, to recognize, prepare, or administer certification programs for persons regulated under this Act. Deletes text regarding continuing education programs. Requires the board to recognize, prepare, or administer continuing education programs for its license holders. Requires a license holder to participate in the continuing education programs to the extent required by the board to keep the person's license. Requires the department to issue appropriate certificates to those persons who complete a certification program or who participate in a continuing education program under this section.

SECTION 37. (a) Provides that the nine members of the governing board (board) of the Texas Department of Housing and Community Affairs (department) who are serving immediately before September 1, 2001, continue to serve as the governing board of the department on and after that date regardless of whether those members meet the membership requirements prescribed by Chapter 2306B, Government Code, as amended by this Act. Provides, however, that the positions of those nine members are abolished on the date on which a majority of the seven board membership positions

that are created under Chapter 2306B, Government Code, as amended by this Act, are filled by appointment by the governor and the appointees qualify for office.

(b) Requires the governor to make the seven appointments to the board under Chapter 2306B, Government Code, as amended by this Act, as soon as possible on or after September 1, 2001. Requires the governor, in making the initial appointments, to designate two members for terms expiring January 31, 2003, two members for terms expiring January 31, 2005, and three members for terms expiring January 31, 2007.

(c) Provides that the changes in law made by this Act in amending Chapter 2306B, Government Code, do not affect the ability of the director of the department who is serving on the effective date of this Act to continue to serve in that capacity until the governing board of the department appointed by the governor under Chapter 2306B, Government Code, as amended by this Act, employs a new director under Chapter 2306.

SECTION 38. (a) Requires the governor to make the appointments to the Manufactured Housing Board created by Chapter 2306AA, Government Code, as amended by this Act, as soon as possible on or after September 1, 2001. Requires the governor, in making the initial appointments, to designate one member for a term expiring January 31, 2003, two members for terms expiring January 31, 2005, and two members for terms expiring January 31, 2007.

(b) Authorizes the director of the Texas Department of Housing and Community Affairs (department), until the Manufactured Housing Board employs a division director for the manufactured housing division of the department, to continue to carry out the functions of the division director for that division.

SECTION 39. Requires the new governing board (board) of the Texas Department of Housing and Community Affairs (department) appointed by the governor under Chapter 2306B, Government Code, as amended by this Act, as soon as practicable after the effective date of this Act, to develop a strategic action plan to implement the requirements of this Act. Requires the board to employ a new director to provide and monitor the provision of administrative support to the board to assist in implementing the plan. Requires the director to evaluate the organizational structure of the department, including the evaluation of essential management positions, and to make any organizational changes necessary to implement the plan and the other requirements of this Act.

SECTION 40. Requires the Sunset Advisory Commission (commission), not later than December 31, 2002, to evaluate the success of the Texas Department of Housing and Community Affairs (department) in implementing the requirements of this Act before that date, including actions taken by the department with respect to certain issues. Requires the commission, before January 1, 2003, to report the results of evaluation to the presiding officer of each house of the legislature.

SECTION 41. Requires the governor and the lieutenant governor, not later than November 1, 2001, to appoint the initial members of the executive committee of the Office of Rural Community Affairs in accordance with Chapter 487, Government Code, as added by this Act. Requires the governor to appoint two members and the lieutenant governor to appoint one member for terms expiring February 1, 2003. Requires the governor to appoint two members and the lieutenant governor to appoint one member for terms expiring February 1, 2005, and requires the governor to appoint two members and the lieutenant governor to appoint one member for terms expiring February 1, 2007. Prohibits the executive committee from taking action until a majority of the members have taken office. Requires the Office of Rural Community Affairs to employ an executive director in accordance with Chapter 487, Government Code, as added by this Act, not later than December 1, 2001.

SECTION 42. (a) Provides that, on the date by which a majority of the members of the executive committee of the Office of Rural Community Affairs have taken office, all powers, duties, obligations,



rights, contracts, leases, records, personnel, property, and unspent and unobligated appropriations and other funds of the Texas Department of Housing and Community Affairs related to the federal community development block grant nonentitlement program are transferred to the Office of Rural Community Affairs.

(b) Provides that the transfer of the federal community development block grant nonentitlement program to the Office of Rural Community Affairs does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, any penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the program by the Texas Department of Housing and Community Affairs.

(c) Provides that all rules, policies, procedures, and decisions of the Texas Department of Housing and Community Affairs related to the federal community development block grant nonentitlement program are continued in effect as rules, policies, procedures, and decisions of the Office of Rural Community Affairs until superseded by a rule or other appropriate action of the Office of Rural Community Affairs.

(d) Provides that any action or proceeding before the Texas Department of Housing and Community Affairs related to the federal community development block grant nonentitlement program is transferred without change in status to the Office of Rural Community Affairs, and the Office of Rural Community Affairs assumes, without a change in status, the position of the Texas Department of Housing and Community Affairs in any action or proceeding related to the program to which the Texas Department of Housing and Community Affairs is a party.

(e) Provides that a fund or account administered by the Texas Department of Economic Development relating to the federal community development block grant nonentitlement program is not considered to be abolished and re-created by this Act but is considered to be transferred to the Office of Rural Community Affairs.

(f) Requires that, notwithstanding the changes in law made by this Act, until the date the federal community development block grant nonentitlement program is transferred to the Office of Rural Community Affairs as provided by this Act, the Texas Department of Housing and Community Affairs and the Texas Department of Economic Development continue to exercise the powers and duties assigned to the Texas Department of Housing and Community Affairs and the Texas Department of Economic Development, respectively, under the law as it existed immediately before the effective date of this Act or as modified by another Act of the 77th Legislature, Regular Session, 2001, that becomes law, and provides that the former law is continued in effect for that purpose.

SECTION 43. Repealers: Sections 2306.023 (Separation of Divisions), 2306.026 (Board Places), and 2306.052(d) (regarding Director's Powers and Duties), Government Code.

SECTION 44. Provides that a member of the governing board of the Texas Department of Housing and Community Affairs, of the Manufactured Housing Board, or of the executive committee of the Office of Rural Community Affairs is not subject to the prohibition imposed by Section 2306.028, 2306.6011, or 487.023, Government Code, as applicable, until September 1, 2002.

SECTION 45. Effective date: September 1, 2001.