

## **BILL ANALYSIS**

Senate Research Center  
80R15244 EJI-F

H.B. 2063  
By: Menendez et al. (West)  
Intergovernmental Relations  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Housing and Community Affairs (TDHCA) administers the annual nine percent housing tax credit allocations for multi-family affordable housing projects across the state. The tax credits are assigned each year by the federal Internal Revenue Service and are allocated on a regional basis by the TDHCA based on a complex formula that has evolved based on TSHCA rulemaking authority. As a result of these allocation policies, several of the 13 service regions in the state have experienced erratic or declining allocations of tax credits at the same time that demand and need for affordable, low income housing has grown significantly in these areas. Conversely, as a result of disparities in the formula, other regions have become saturated to the point where elected officials have called for temporary moratoriums to offset over building and poverty concentrations in certain districts.

The Regional Allocation Formula, which TDHCA develops each year, has been the subject of the past two House Urban Affairs Interim Charges evaluations. A number of alternatives have been examined to address the disproportionate allocations resulting from the methodology developed by TDHCA but have not been adopted by TDHCA. Legislation may be required to ensure that TDHCA considers only those factors that ensure fair distribution of the tax credits throughout both the urban and the rural areas of the state.

H.B. 2063 establishes certain methodology and criteria to allow TDHCA to develop an equitable distribution of the tax credits for multifamily affordable housing projects.

### **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. Reenacts and amends Section 2306.111(c), Government Code, as amended by Chapters 1367 and 1448, Acts of the 77th Legislature, Regular Session, 2001, to require the Texas Department of Housing and Community Affairs (TDHCA), in administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), to expend five percent of these funds for the benefit of persons with disabilities who live in any area of this state. Deletes existing text providing specification for the expenditure of funds.

SECTION 2. Amends Section 2306.111, Government Code, by amending Subsections (d), (d-1), (e), (f), and (g), and adding Subsections (d-2) and (d-3), as follows:

(d) Requires TDHCA to allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), housing trust funds administered by TDHCA under Sections 2306.201-2306.206, and commitments issued under the federal low income housing tax credit program administered by TDHCA under Subchapter DD to all urban, rather than urban/exurban, areas and rural areas of each uniform state service region based on a formula developed by TDHCA under Section 2306.1115. Deletes existing text relating to the allocation of federal funds. Makes a conforming change.

(d-1) Requires TDHCA, in allocating low income housing tax credit commitments under Subchapter DD, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Provides that other funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if the funds or credits are allocated by TDHCA primarily to serve persons with disabilities or the funds are housing trust funds administered by TDHCA under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed \$3 million during each application cycle. Makes conforming changes.

(d-2) Requires TDHCA, in allocating low income housing tax credit commitments under Subchapter DD, to allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Requires any funds allocated to developments under this subsection that involve rehabilitation to come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). Provides that this subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2).

(d-3) Requires TDHCA, in allocating low income tax credit commitments under Subchapter DD, to allocate to developments in rural areas 20 percent or more of the housing tax credits in the application cycle, with \$500,000 or more in housing tax credits being reserved for each uniform state service region under this subsection. Provides that any amount of housing tax credits set aside for developments in rural areas under this subsection that remains after the initial allocation of housing tax credits is available for allocation to developments in urban areas of each uniform state service region, except that if the credits were set aside under this subsection for developments in rural areas in a specific uniform state service region and if qualified applications are submitted with respect to developments in urban areas in that region, TDHCA is required to allocate the funds to those developments.

(e) - (g) Makes conforming changes.

SECTION 3. Amends Subchapter F, Chapter 2306, Government Code, by adding Section 2306.1115, as follows:

Sec. 2306.1115. REGIONAL ALLOCATION FORMULA. (a) Requires TDHCA to develop a certain formula to allocate housing funds under Section 2306.111(d).

(b) Requires TDHCA to use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

SECTION 4. Amends Section 2306.127, Government Code, as follows:

Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. Requires TDHCA, in a manner consistent with the regional allocation formula described under Section 2306.1115, to give priority through its housing program scoring criteria to communities that, at the time complete applications are submitted under a housing program in relation to those communities, are located wholly or partly in certain areas. Makes a conforming change.

SECTION 5. Provides that it is the intent of the legislature that the passage by the 80th Legislature, Regular Session, 2007, of another bill that amends Chapter 2306, Government Code, and the amendments made by this Act are required to be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. Provides that, if the amendments made by this Act to Chapter 2306, Government Code, and the amendments made to Chapter 2306, Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

SECTION 6. Makes application of this Act, as it applies to the evaluation of applications for financial assistance administered by TDHCA, prospective.

SECTION 7. Effective date: September 1, 2007.