



Legislative Bulletin.....February 26, 2008

Contents:

H.R. 3521—Public Housing Asset Management Improvement Act

Summary of the Bill Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

**H.R. 3521—Public Housing Asset Management Improvement Act
(Sires, D-NJ)**

Order of Business: The bill is scheduled to be considered on Tuesday, February 26th, subject to a structured rule ([H.Res. 974](#)). Summaries of the amendments made in order under the rule are provided in a separate RSC document.

Background: The following background is provided by the Republican staff of the Financial Services Committee:

PHAs [Public Housing Authorities] are public agencies established by state or local governments for the purpose of operating and maintaining public housing.

PHAs are eligible to receive two sources of funding from HUD [Department of Housing and Urban Development]: operating funds and capital funds. Operating funds are granted to PHAs to cover operating and management costs, including administration, routine maintenance, resident participation in management, insurance and energy. Capital funds are distributed to PHAs based on a formula and are intended to further the core purposes of public housing, including construction, operation, and maintenance of affordable housing units.

The Quality Housing and Work Responsibility Act (QHWRA), passed by Congress in 1998, included a requirement for negotiated rulemaking to develop a new public housing operating fund formula. Rulemaking concluded in 2004, after a three-year, \$4 million Operating Cost Study was conducted, and in 2005, HUD issued the Public Housing Operating Fund Final Rule.

This rule requires PHAs that manage 250 or more public housing units to begin transitioning in 2007 to a new property management system known as asset management. Currently, PHAs manage their assets on an agency-wide basis. However, implementation of asset management would require PHAs to utilize project-based administration, including project-based funding, budgeting, accounting, management, and performance management. There is a general consensus among industry groups and HUD that asset management is desirable, but housing agency groups have been critical of several components of the negotiated rule. Due to pressure from Chairman Frank and other Members of Congress, including some Republicans, HUD agreed to delay the implementation in an effort to give PHAs additional time to comply with the negotiated rule.

In other words, the negotiated rule would require more unit-by-unit, project-by-project accountability for public housing, rather than accountability based on a PHA's entire portfolio.

NOTE: HUD has pointed out that the negotiated rule would already exempt 74% of PHAs from its application (since the vast majority of PHAs control less than 250 units).

Summary: H.R. 3521 would prohibit the HUD Secretary from imposing restrictions or limitations on the amount of management and related fees with respect to a public housing project that the PHA determines to be "reasonable," unless such restriction or limitation is:

- determined pursuant to a negotiated rulemaking convened by the Secretary no earlier than April 1, 2009, with representatives from interested parties; and
- effective only on or after January 1, 2011.

The bill would also allow any PHA that owns or operates fewer than 500 public housing units to elect to be exempt from asset management requirements imposed by the HUD Secretary. (This would double the 250-unit threshold under the current negotiated rule and would, according to HUD, have the effect of exempting 88% of PHAs from its asset management rule.)

Additionally, HUD would be prohibited from imposing any requirement, regulation, or guideline relating to asset management that restricts or limits in any way the use by PHAs of amounts for Capital Fund assistance for costs of any PHA central office. In other words, the bill would prohibit restrictions on the use of appropriated funds for PHAs for administrative purposes

(within the 20% cap on administrative expenses from the Capital Fund and other administrative allowances in current law).

HUD would be directed to ensure that PHAs encourage the “reasonable efforts” of resident tenant organizations to represent their members and of tenants to organize, relating to any public housing asset management issue.

HUD would have to encourage participation by public housing residents in the implementation of asset management and the development of local policies for such purposes.

Committee Action: On September 10, 2007, the bill was referred to the Financial Services Committee, which, on September 25th, marked up the bill and ordered it reported to the full House by voice vote.

Possible Conservative Concerns: Some conservatives may be concerned that this bill would:

- Increase the number of PHAs that do not have to comply with the proposed unit-by-unit asset management accountability system;
- Increase the availability of funds for administrative overhead, since every dollar used for overhead is a dollar less for renovations, repairs, and upkeep of public housing; and
- Negate a rule that was delicately negotiated over several years amongst HUD, resident groups, and housing industry representatives.

Administration Position: The Administration “[strongly opposes](#)” this legislation.

Cost to Taxpayers: CBO estimates that this legislation would have “no significant impact on the federal budget.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Financial Services Committee, in [House Report 110-521](#), asserts that, “H.R. 3521 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.”

Constitutional Authority: The Financial Services Committee, in [House Report 110-521](#), cites constitutional authority in Article I, Section 8, Clauses 1 (the congressional power to provide for the **general** welfare of the United States) and 3 (the congressional power to regulate interstate **commerce**). (*emphasis added*)

Outside Organizations: The following organizations are supporting H.R. 3521:

- Council of Large Public Housing Authorities;

- National Association of Housing and Redevelopment Officials; and
- Public Housing Authorities Directors Association.

A list of organizations opposing the bill was not available at press time.

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