

BILL ANALYSIS

C.S.H.B. 256
By: Hopson
Government Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law does not allow local governments (cities, counties, and school boards) the ability to invest in financial institutions outside the state while still protecting public deposits above the \$100,000 FDIC limit, and without having to collateralize the deposits or to go to more than one bank. With the Certificate of Deposit Account Registry Service (CDARS – pronounced “cedars”), banks can offer a customer up to \$10 million in Federal deposit insurance coverage.

Under the proposed language, for government financial managers, CDARS offers the safety of FDIC insurance with the convenience of one negotiated interest rate, one regular statement, and one banking relationship. It makes their jobs much easier by eliminating the need to collateralize deposits. CDARS is a deposit placement service through a network of about 750 banks throughout the country.

When a customer places a large deposit with a network member, the bank arranges for the placement of the funds into certificates of deposit issued by other network banks – in increments of less than \$100,000 to ensure that both principal and interest are eligible for full FDIC protection. Because network members exchange deposits dollar for dollar, the local bank, in effect, has the use of every dollar deposited in it through CDARS. Deposits placed through CDARS meet the pass-through insurance coverage guidelines established by the FDIC.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. This section amends Section 2256.010 of the Government Code, which is contained in the Public Funds Investment Act (Government Code, Title 10, Subtitle F, Chapter 2256, Subchapter A (Authorized Investments for Governmental Entities) by adding a new subsection (b) to this section.

The introductory sentence to the new subsection (b) states that in addition to the authority to invest funds in certificates of deposit (“CDs”) under subsection (a), an investment in CDs made in accordance with the following conditions is an authorized investment.

Subsection (b) (1) requires that the government investment entity initially invest the funds through a bank that is domiciled in Texas and that is selected by the government entity for that investment.

Subsection (b) (2) requires that the selected bank arrange for the deposit of the funds in CDs in one or more federally insured banks or savings and loan associations wherever located, including out of state. The CDs will be issued for the account of the investing government entity as the beneficial owner of the CDs.

Subsection (b) (3) requires that the full amount of the principal and accrued interest of each CD is insured by the United States or an instrumentality of the United States, in effect the Federal Deposit Insurance Corporation. Each CD will be issued in an amount within the FDIC \$100,000 insurance coverage limit. The total amount of the government investment will be allocated

among a number of financial institutions. The government entity's investment will thus be fully protected against the failure of any of the institutions issuing the CDs.

Subsection (b) (4) requires that the bank selected by the government entity will act as custodian for the government entity with respect to the CDs. Under this provision, when the CDs issued by other institutions to the government entity mature, the payment of the principal and accrued interest will be made by those institutions through the selected bank in Texas.

Subsection (b) (5) requires that at the same time that the CDs are issued for the account of the government entity, the bank selected by that entity will receive an amount of deposits from customers of other federally insured financial institutions that is equal to the amount of the funds invested by the government entity. In this way, the economic effect of investments by government entities made in accordance with this procedure will be that the selected bank in Texas will have on deposit the amount of funds initially invested by the government entity.

EFFECTIVE DATE

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 256 makes a technical and conforming change to Section 2256.010 (a) to reflect the modern interstate bank branching environment, including changes to the public deposit and investment laws.