

BILL ANALYSIS

C.S.H.B. 2558
By: Otto
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Government Code, section 442.015, authorizes the Texas preservation trust fund account as a separate account in the general revenue fund. The trust fund, which currently contains about \$12 million, consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, and interest income.

Money in the account provides for financial assistance to public or private entities for planning and educational activities, as well as the acquisition, survey, restoration, or preservation of historic property. Preservation trust fund dollars may not be used for operating expenses of the Texas Historical Commission.

Currently, the Texas Historical Commission and Comptroller lack the authority to invest preservation trust fund assets in such a way as to generate a normal rate of return. The way the Comptroller currently invests monies in the Preservation Trust Fund in a manner that yields a low rate of return, especially when compared to other state investment strategies, such as those used for the Comptrollers' safekeeping trust fund. .

C.S.H.B. 2558 allows the Comptroller to invest the preservation trust fund in a manner similar to the investment of assets in the safekeeping trust fund is invested, allowing for a higher rate of return. Specifically, the bill allows the Comptroller to invest the preservation trust fund in ways that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund.

C.S.H.B. 2558 should help provide for a higher rate of return on the preservation trust fund, thus generating additional funds for grants and assistance to local historic preservation activities.

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. Amends Section 442.015 of the Government Code to allow the Comptroller to manage the assets of the preservation trust fund account by amending subsections a, b and f, and adding new subsections h-l.

Subsection (a) clarifies funding sources of the preservation trust fund account, and makes clear that distributions from the account may not be used to pay operating expenses of the Commission. Subsection (b) defines how the Commission may use distributions from the account. It also makes clear that gifts and grants deposited in the account shall be unencumbered unless designated to a specific project, in which case the entire amount of the gift or grant may be used during any period for the project.

Subsection (f) states that an advisory board shall recommend to the Commission rules for administering subsections a-e pertaining to the preservation trust fund account and its investment assets.

Subsection (h) states that the comptroller shall manage the assets of the preservation trust account in a manner that prudent investors, exercising reasonable care, skill, and caution, would

utilize. Subsection (i) states that distributions from the fund will be made in order provide a stable and predictable stream of annual distributions. The Comptroller may not increase annual distributions unless the 10-year purchasing power of account investments is preserved.

Subsection (j) provides that annual distributions from the account during any fiscal year may not exceed seven percent of the average net market value of the investment assets. Subsection (k) states that expenses of managing investments of the account shall be paid from the account. Subsection (l) states that upon request, the comptroller shall fully disclose all details concerning the investments of the account.

SECTION 2. The bill takes effect immediately if it receives a vote of two-thirds of all members elected to each house. Otherwise, it takes effect September 1, 2007.

EFFECTIVE DATE

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 September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds language to Section 442.015 of the Texas Government Code pertaining to the Comptrollers' management of the fund assets. Specifically, it gives the Comptroller clear authority to supervise preservation trust fund assets using prudent investor standards and reasonable caution.

Gifts and grants deposited in the account shall be unencumbered unless designated to a specific project, in which case the entire amount of the gift or grant may be used during any period for the project. A Commission advisory board will recommend to the Texas Historical Commission rules for administering subsections a-e of CSHB 2558.

Comptroller decisions about distributions from the fund will be made in order provide a stable and predictable stream of annual distributions. The Comptroller may not increase annual distributions unless the 10-year purchasing power of account investments is preserved. Annual distributions from the account during any fiscal year may not exceed seven percent of the average net market value of the investment assets.

Expenses of managing investments of the account shall be paid from the account. Upon request, the comptroller shall fully disclose all details concerning the investments of the account.

The Committee substitute also instructs the preservation trust fund advisory board to recommend to the Texas Historical Commission rules for administering sections a-f of 442.015 of the Texas Government Code pertaining to the preservation trust fund account and its investment assets.