

BILL ANALYSIS

C.S.H.B. 3607
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

This bill seeks to create greater transparency for the investment pools and additional standards so pools are easily comparable. The bill addresses the broker certificates of deposit concept, which has become more prevalent with the introduction of the CEDARS programs but has not been fully addressed in current law.

C.S.H.B. 3607 updates and clarifies several provisions of the Texas Public Funds Investment Act to address changes in the investment and security industry. The bill provides additional investment authority for investment of mineral rights for certain governmental entities and clarification on additional items including investment reporting for governmental entities.

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

C.S.H.B. 3607 amends the Government Code to require the investment policy of the governing body of an investing governmental entity to include procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions relating to the liquidation of investments that do not have the minimum rating required to qualify as an authorized investment.

C.S.H.B. 3607 adds obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States to the list of authorized investments for governmental entities.

C.S.H.B. 3607 establishes that an investment in certificates of deposit is an authorized investment of a governmental entity if made in accordance with the following conditions: the funds are invested by an investing entity through a broker that is selected from a list adopted by the investing entity; the broker selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity; and the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States.

C.S.H.B. 3607 authorizes an investment pool to invest its funds in money market mutual funds to the extent permitted by and consistent with provisions relating to authorized investments for governmental entities and the investment policies and objectives adopted by the investment pool. The bill requires a statement regarding how the yield of the pool is calculated to be included in the monthly report an investment pool is required to furnish to the investment officer or other authorized representative of the pool to maintain the pool's eligibility to receive funds from and invest funds on behalf of an investing governmental entity. The bill requires a public funds

investment pool created to function as a money market mutual fund to report yield to its investors in accordance with provisions of the Code of Federal Regulations, promulgated by the federal Securities and Exchange Commission. The bill requires the investment pool's offering circular or other similar disclosure instrument, report, and portfolio, if the investment pool operates an Internet website, to be posted on the website. The bill requires an investment pool, to maintain eligibility to receive funds from and invest funds on behalf of an investing governmental entity, to make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested. The bill requires an investment pool, in advertising investment rates, if the investment pool offers fee breakpoints based on fund balances invested, to include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

C.S.H.B. 3607 clarifies that the two-year period within which the state agency's investment officer and the treasurer, the chief financial officer, if the treasurer is not the chief financial officer, and the investment officer of a local government are required to attend at least one training session is the state fiscal biennium. The bill makes a similar clarification regarding the two-year period within which an officer of the governing body of an investing entity that has contracted with an investment management firm and has fewer than five full-time employees or has contracted with another investing entity is required to attend four hours of appropriate instruction.

C.S.H.B. 3607 removes a provision requiring a public funds investment pool to be continuously rated no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

C.S.H.B. 3607 authorizes a local government to invest funds received by the local government from leases and contracts executed for the management and development of lands that are owned by the local government and leased for oil, gas, and other mineral development in any investment authorized under powers granted under the Texas Trust Code. The bill requires funds invested by a local government in accordance with this authorization to be segregated and accounted for separately from other funds of the local government.

C.S.H.B. 3607 amends the composition of the internal management report of investment transactions for all public investment funds by removing the requirement that a summary statement of each pooled fund group be prepared in compliance with generally accepted accounting principles; the requirement that the summary statement state the additions and changes to the market value during the reporting period; and the requirement that the report state the book value and market value of each separately invested asset at the beginning of the reporting period.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3607 differs from the original, in clarifying that the time frame during which a state agency's investing officer and certain local government officials are required to attend at least one training session is the state fiscal year, by replacing the term "in a two-year period" with the term "each state fiscal biennium" in the applicable existing provisions, whereas the original, for such purposes, adds new provisions stating that "references to a two-year period shall coincide with the fiscal year of the state." The substitute omits provisions in the original specifying what is considered an independent source.

C.S.H.B. 3607 differs from the original by clarifying that the broker through which an investing entity invests its funds is selected from a list adopted by the investing entity, whereas the original provides that the broker is selected and approved by the investing entity without reference to such a list.

C.S.H.B. 3607 removes a provision in the original prohibiting an investing entity from acquiring commercial paper that is exempt from registration under federal securities law by the Security Act of 1933.

C.S.H.B. 3607 differs from the original by clarifying that the disclosure instrument or report required to be posted on the website of the investment pool refers to the monthly report that an investment pool is required to provide to an investing entity's investment officer to maintain eligibility to receive funds from and invest funds on behalf of the entity.

C.S.H.B. 3607 differs from the original by removing one alternative rating requirement for a public funds investment pool to be continuously rated no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days, whereas the original repealed the statute containing the two alternative rating requirements in its entirety.