

## **BILL ANALYSIS**

C.S.H.B. 4076  
By: Paxton  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The growth of business and commerce in Texas is vital to ensure economic recovery and future economic growth.

C.S.H.B. 4076 establishes the Texas Power Source account to invest in Texas businesses and assets and to attract capital to invest in Texas businesses and assets. The bill sets forth provisions relating to the operation and administration of the account relating to the account's oversight committee, selection committee, investment team, investment strategy, oversight requirements, and dissolution.

### **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. 4076 amends the Government Code to establish the Texas Power Source account to invest in Texas businesses and assets and attract capital to invest in Texas businesses and assets. The bill specifies that the establishment, management, and investment of the Texas Power Source account is a program under provisions of the Texas Constitution relating to programs created by the legislature to encourage state economic development. The bill clarifies that the Texas Power Source is an account outside the treasury and requires the comptroller of public accounts to deposit funds in the account as provided by the General Appropriations Act. The bill requires the governor to appoint a nine-member oversight committee to control and manage the account and requires the committee to consider and approve or reject nominees to the board of directors of an investment team. The bill requires the oversight committee to approve nominees to the board of directors of the investment team who have demonstrated and substantial investment expertise. The bill requires the governor, in consultation with the lieutenant governor and the speaker of the house of representatives, to appoint a five-member selection committee and sets out requirements of the committee relating to identification and selection of nominees for the board of directors of the investment team and engaging with an executive search firm to conduct the search. The bill authorizes the governor to remove and replace members of the oversight committee and the selection committee.

C.S.H.B. 4076 requires the investment team to be organized as a nonprofit corporation under the Business Organizations Code and clarifies that the investment team is not a state agency and the board of directors of the investment team are not state employees. The bill requires the oversight committee to contract with the investment team to invest the Texas Power Source account and sets out the oversight committee's duties relating to bylaws, investment policies, and audit and ethics issues for the investment team. The bill sets out requirements for the contract between the oversight committee and the investment team relating to compensation for the investment team, licenses and registrations for the investment team, liability insurance coverage for directors, employees, and agents of the team, and authorized delegation of authority to the investment

team. The bill prescribes the investment strategy for the Texas Power Source account and requires the contract between the oversight committee and the investment team to require compliance with the strategy. The bill requires the account to be invested according to a strategy that maximizes total investment return and authorizes the manner in which the total return may be measured. The bill requires 80 percent of the account's assets to be invested according to a co-investment strategy to leverage the resources and investing experience of private sector investors. The bill sets out required considerations for the co-investment strategy. The bill requires 20 percent of the account's assets to be invested in small businesses and limits the total amount of investments in small businesses under the control of any individual to \$2 million. The bill authorizes the investment of the account's assets only in businesses, public or private, with operations and assets substantially located in the state and only with the potential for job and economic growth. The bill provides for the retention of income and returns in the account until the account is dissolved.

C.S.H.B. 4076 requires the oversight committee to review the activities of the investment team to ensure compliance with the investment strategy and operating guidelines as provided by the bill. The bill establishes procedures for the oversight committee on determination that the activities of the investment team are in material noncompliance with provisions of the bill or the investment team's contract. The bill requires the investment team to make quarterly reports to the oversight committee and annual reports to the state oversight committee and the legislature regarding the finances and operation of the account.

C.S.H.B. 4076 requires the investment team to begin dissolution of the Texas Power Source account not later than September 1, 2019, or the 10th anniversary of the date of extension of the account. The bill requires the investment team to use reasonable efforts to plan the orderly liquidation of the investments so that all investments will be liquidated before September 1, 2020, or the 11th anniversary of the date of extension of the account. The bill prohibits further investments from being made in or by the account after September 1, 2019, or the 10th anniversary of the date of extension of the account, except under unusual circumstances to protect investments. The bill requires the account's assets to be returned to the comptroller upon dissolution. The bill sets out procedures for the extension of the account by the legislature.

C.S.H.B. 4076 sets forth the restrictions on the use of funds received by a political subdivision or private entity from the Texas Power Source account for lobbying activities and prohibits the Texas Power Source and persons on the oversight committee, selection committee, or board of directors of the investment team from receiving a gift in exchange for action and from using any account money under the person's control to finance or otherwise support the candidacy of a person for an office of a local or county government, of the legislative, executive, or judicial branch of state government, or of the government of the United States. The bill requires the governor to appoint members of the selection committee not later than the 30th day after the effective date of the bill.

#### **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. 4076 differs from the original by omitting provisions included in the original creating the Texas power source private sector trust fund into which the comptroller matches dollar-for-dollar up to \$500 million in private investment. The bill omits provisions relating to property tax incentives for investors, a nine-member board of trustees for the operation of the fund, staffing for and contracting by the board, the appointment of regional investment boards, the quarterly proportionate distribution to investors of income realized on investments, and Sunset Advisory Commission review of the fund and report to the legislature. The substitute adds provisions not

included in the original to create the Texas Power Source account and provisions relating to the appointment of an oversight committee and a selection committee, contract requirements for a contract with a nonprofit corporation to function as the account's investment team, the account's investment strategy and authorized investments, investment team oversight, restrictions on lobbying expenditures, and prohibited acts by certain persons associated with the account. The substitute differs from the original by providing a specific schedule for the dissolution of the account and liquidation of the account's investments unless otherwise extended, whereas the original specifies the 10th anniversary of the effective date of the bill's provisions. The substitute differs from the original by requiring the governor to appoint the members of the selection and oversight committees not later than the 30th day after the bill's effective date, whereas the original requires the governor to appoint the board of trustees for the fund not later than December 1, 2009. The substitute differs from the original by providing for immediate effect on a two-thirds vote or September 1 2009, whereas the original provided for the bill to take effect September 1, 2009.