

By: Truitt

H.B. No. 3607

Substitute the following for H.B. No. 3607:

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C.S.H.B. No. 3607

A BILL TO BE ENTITLED

AN ACT

relating to authorized investments for governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2256.005(b), Government Code, is amended to read as follows:

(b) The investment policies must:

(1) be written;

(2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds; ~~and~~

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a

1 delivery versus payment basis; and

2 (F) procedures to monitor rating changes in  
3 investments acquired with public funds and the liquidation of such  
4 investments consistent with the provisions of Section 2256.021.

5 SECTION 2. Section 2256.007(d), Government Code, is amended  
6 to read as follows:

7 (d) An investment officer shall attend a training session  
8 not less than once each state fiscal biennium [~~in a two-year period~~]  
9 and may receive training from any independent source approved by  
10 the governing body of the state agency. The investment officer  
11 shall prepare a report on this subchapter and deliver the report to  
12 the governing body of the state agency not later than the 180th day  
13 after the last day of each regular session of the legislature.

14 SECTION 3. Sections 2256.008(a) and (b), Government Code,  
15 are amended to read as follows:

16 (a) Except as provided by Subsections (b) and (e), the  
17 treasurer, the chief financial officer if the treasurer is not the  
18 chief financial officer, and the investment officer of a local  
19 government shall:

20 (1) attend at least one training session from an  
21 independent source approved by the governing body of the local  
22 government or a designated investment committee advising the  
23 investment officer as provided for in the investment policy of the  
24 local government and containing at least 10 hours of instruction  
25 relating to the treasurer's or officer's responsibilities under  
26 this subchapter within 12 months after taking office or assuming  
27 duties; and

1           (2) except as provided by Subsections (b) and (e),  
2 attend an investment training session not less than once each state  
3 fiscal biennium [~~in a two-year period~~] and receive not less than 10  
4 hours of instruction relating to investment responsibilities under  
5 this subchapter from an independent source approved by the  
6 governing body of the local government or a designated investment  
7 committee advising the investment officer as provided for in the  
8 investment policy of the local government.

9           (b) An investing entity created under authority of Section  
10 52(b), Article III, or Section 59, Article XVI, Texas Constitution,  
11 that has contracted with an investment management firm under  
12 Section 2256.003(b) and has fewer than five full-time employees or  
13 an investing entity that has contracted with another investing  
14 entity to invest the entity's funds may satisfy the training  
15 requirement provided by Subsection (a)(2) by having an officer of  
16 the governing body attend four hours of appropriate instruction  
17 each state fiscal biennium [~~in a two-year period~~]. The treasurer or  
18 chief financial officer of an investing entity created under  
19 authority of Section 52(b), Article III, or Section 59, Article  
20 XVI, Texas Constitution, and that has fewer than five full-time  
21 employees is not required to attend training required by this  
22 section unless the person is also the investment officer of the  
23 entity.

24           SECTION 4. Section 2256.009(a), Government Code, is amended  
25 to read as follows:

26           (a) Except as provided by Subsection (b), the following are  
27 authorized investments under this subchapter:

1           (1) obligations, including letters of credit, of the  
2 United States or its agencies and instrumentalities;

3           (2) direct obligations of this state or its agencies  
4 and instrumentalities;

5           (3) collateralized mortgage obligations directly  
6 issued by a federal agency or instrumentality of the United States,  
7 the underlying security for which is guaranteed by an agency or  
8 instrumentality of the United States;

9           (4) other obligations, the principal and interest of  
10 which are unconditionally guaranteed or insured by, or backed by  
11 the full faith and credit of, this state or the United States or  
12 their respective agencies and instrumentalities, including  
13 obligations that are fully guaranteed or insured by the Federal  
14 Deposit Insurance Corporation or by the explicit full faith and  
15 credit of the United States;

16           (5) obligations of states, agencies, counties,  
17 cities, and other political subdivisions of any state rated as to  
18 investment quality by a nationally recognized investment rating  
19 firm not less than A or its equivalent; and

20           (6) bonds issued, assumed, or guaranteed by the State  
21 of Israel.

22           SECTION 5. Section 2256.010, Government Code, is amended by  
23 adding Subsection (c) to read as follows:

24           (c) In addition to the authority to invest funds in  
25 certificates of deposit under Subsections (a) and (b), an  
26 investment in certificates of deposit is an authorized investment  
27 under this subchapter if made in accordance with the following

1 conditions:

2 (1) the funds are invested by an investing entity  
3 through a broker that is selected from a list adopted by the  
4 investing entity as required by Section 2256.025;

5 (2) the broker selected by the investing entity under  
6 Subdivision (1) arranges for the deposit of the funds in  
7 certificates of deposit in one or more federally insured depository  
8 institutions, wherever located, for the account of the investing  
9 entity; and

10 (3) the full amount of the principal and accrued  
11 interest of each of the certificates of deposit is insured by the  
12 United States or an instrumentality of the United States.

13 SECTION 6. Section 2256.016, Government Code, is amended by  
14 amending Subsections (a), (c), and (f) and adding Subsections (i),  
15 (j), and (k) to read as follows:

16 (a) An entity may invest its funds and funds under its  
17 control through an eligible investment pool if the governing body  
18 of the entity by rule, order, ordinance, or resolution, as  
19 appropriate, authorizes investment in the particular pool. An  
20 investment pool shall invest the funds it receives from entities in  
21 authorized investments permitted by this subchapter. An investment  
22 pool may invest its funds in money market mutual funds to the extent  
23 permitted by and consistent with this subchapter and the investment  
24 policies and objectives adopted by the investment pool.

25 (c) To maintain eligibility to receive funds from and invest  
26 funds on behalf of an entity under this chapter, an investment pool  
27 must furnish to the investment officer or other authorized

1 representative of the entity:

2 (1) investment transaction confirmations; and

3 (2) a monthly report that contains, at a minimum, the  
4 following information:

5 (A) the types and percentage breakdown of  
6 securities in which the pool is invested;

7 (B) the current average dollar-weighted  
8 maturity, based on the stated maturity date, of the pool;

9 (C) the current percentage of the pool's  
10 portfolio in investments that have stated maturities of more than  
11 one year;

12 (D) the book value versus the market value of the  
13 pool's portfolio, using amortized cost valuation;

14 (E) the size of the pool;

15 (F) the number of participants in the pool;

16 (G) the custodian bank that is safekeeping the  
17 assets of the pool;

18 (H) a listing of daily transaction activity of  
19 the entity participating in the pool;

20 (I) the yield and expense ratio of the pool,  
21 including a statement regarding how yield is calculated;

22 (J) the portfolio managers of the pool; and

23 (K) any changes or addenda to the offering  
24 circular.

25 (f) To be eligible to receive funds from and invest funds on  
26 behalf of an entity under this chapter, a public funds investment  
27 pool created to function as a money market mutual fund must mark its

1 portfolio to market daily, and, to the extent reasonably possible,  
2 stabilize at a \$1 net asset value. If the ratio of the market value  
3 of the portfolio divided by the book value of the portfolio is less  
4 than 0.995 or greater than 1.005, portfolio holdings shall be sold  
5 as necessary to maintain the ratio between 0.995 and 1.005. In  
6 addition to the requirements of its investment policy and any other  
7 forms of reporting, a public funds investment pool created to  
8 function as a money market mutual fund shall report yield to its  
9 investors in accordance with 17 C.F.R. Section 230.482(e),  
10 promulgated by the federal Securities and Exchange Commission.

11 (i) If the investment pool operates an Internet website, the  
12 information in a disclosure instrument or report described in  
13 Subsections (b), (c)(2), and (f) must be posted on the website.

14 (j) To maintain eligibility to receive funds from and invest  
15 funds on behalf of an entity under this chapter, an investment pool  
16 must make available to the entity an annual audited financial  
17 statement of the investment pool in which the entity has funds  
18 invested.

19 (k) If an investment pool offers fee breakpoints based on  
20 fund balances invested, the investment pool in advertising  
21 investment rates must include either all levels of return based on  
22 the breakpoints provided or state the lowest possible level of  
23 return based on the smallest level of funds invested.

24 SECTION 7. Section 2256.019, Government Code, is amended to  
25 read as follows:

26 Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A  
27 public funds investment pool must be continuously rated no lower

1 than AAA or AAA-m or at an equivalent rating by at least one  
2 nationally recognized rating service [~~or no lower than investment~~  
3 ~~grade by at least one nationally recognized rating service with a~~  
4 ~~weighted average maturity no greater than 90 days]~~.

5 SECTION 8. Subchapter A, Chapter 2256, Government Code, is  
6 amended by adding Section 2256.0202 to read as follows:

7 Sec. 2256.0202. AUTHORIZED INVESTMENTS; FUNDS FROM  
8 MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to  
9 other investments authorized by this subchapter, a local government  
10 may invest funds received by the local government from leases and  
11 contracts executed for the management and development of lands that  
12 are owned by the local government and leased for oil, gas, and other  
13 mineral development in any investment authorized under powers  
14 granted under Subtitle B, Title 9, Property Code (Texas Trust  
15 Code).

16 (b) Funds invested by a local government in accordance with  
17 Subsection (a) shall be segregated and accounted for separately  
18 from other funds of the local government.

19 SECTION 9. Section 2256.023(b), Government Code, is amended  
20 to read as follows:

21 (b) The report must:

22 (1) describe in detail the investment position of the  
23 entity on the date of the report;

24 (2) be prepared jointly by all investment officers of  
25 the entity;

26 (3) be signed by each investment officer of the  
27 entity;



1 (4) contain a summary statement [~~, prepared in~~  
2 ~~compliance with generally accepted accounting principles,~~] of each  
3 pooled fund group that states the:

4 (A) beginning market value for the reporting  
5 period;

6 (B) [~~additions and changes to the market value~~  
7 ~~during the period,~~

8 [~~(C)~~] ending market value for the period; and

9 (C) [~~(D)~~] fully accrued interest for the  
10 reporting period;

11 (5) state the book value and market value of each  
12 separately invested asset at the [~~beginning and~~] end of the  
13 reporting period by the type of asset and fund type invested;

14 (6) state the maturity date of each separately  
15 invested asset that has a maturity date;

16 (7) state the account or fund or pooled group fund in  
17 the state agency or local government for which each individual  
18 investment was acquired; and

19 (8) state the compliance of the investment portfolio  
20 of the state agency or local government as it relates to:

21 (A) the investment strategy expressed in the  
22 agency's or local government's investment policy; and

23 (B) relevant provisions of this chapter.

24 SECTION 10. This Act takes effect immediately if it  
25 receives a vote of two-thirds of all the members elected to each  
26 house, as provided by Section 39, Article III, Texas Constitution.

27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2009.