

By: Truitt

H.B. No. 3607

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the amendment of Chapter 2256, Texas Government Code.

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

4 SECTION 1. Chapter 2256, Texas Government Code is amended
5 by amending Subsection 2256.005(b) to read as follows:

6 (b) The investment policies must:

7 (1) be written;

8 (2) primarily emphasize safety of principal and
9 liquidity;

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

13 (4) include:

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

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

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

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

23 (E) a requirement for settlement of all
24 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. Chapter 2256, Texas Government Code is amended
6 by adding Subsection 2256.007(e) and (f) to read as follows:

7 (e) For purposes of this section, references to a two-year
8 period shall coincide with the fiscal year of the state.

9 (f) For purposes of this section, an independent source
10 shall mean any organization other than a business organization
11 offering to engage in an investment transaction with an investing
12 entity.

13 SECTION 3. Chapter 2256, Texas Government Code is amended
14 by adding Subsection 2256.008 (f) and (g) to read as follows:

15 (f) For purposes of this section, an independent source
16 shall mean any organization other than a business organization
17 offering to engage in an investment transaction with an investing
18 entity.

19 (g) For purposes of this section, references to a two-year
20 period shall coincide with the fiscal year of the investing entity.

21 SECTION 4. Chapter 2256, Texas Government Code is amended
22 by amending Subsection 2256.009(a)(4) to read as follows:

23 (4) other obligations, the principal and interest of
24 which are unconditionally guaranteed or insured by, or backed by
25 the full faith and credit of, this state or the United States or
26 their respective agencies and instrumentalities, including
27 obligations that are fully guaranteed or insured by the Federal

1 Deposit Insurance Corporation or by the explicit full faith and
2 credit of the United States;

3 SECTION 5. Chapter 2256, Texas Government Code is amended
4 by adding Section 2256.010(c) to read as follows:

5 (c) In addition to the authority to invest funds in
6 certificates of deposit under Subsections (a) and (b), an
7 investment in certificates of deposit is an authorized investment
8 under this subchapter if made in accordance with the following
9 conditions:

10 (1) the funds are invested by an investing entity
11 through a broker that is selected and approved by the investing
12 entity as required by Section 2256.025;

13 (2) the broker selected by the investing entity under
14 Subdivision (1) arranges for the deposit of the funds in
15 certificates of deposit in one or more federally insured depository
16 institutions, wherever located, for the account of the investing
17 entity; and

18 (3) the full amount of the principal and accrued
19 interest of each of the certificates of deposit is insured by the
20 United States or an instrumentality of the United States.

21 SECTION 6. Chapter 2256, Texas Government Code is amended
22 by amending Section 2256.013 to read as follows:

23 Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER.

24 (a) Except as provided in subsection (b) of this section,
25 commercial [~~Commercial~~] paper is an authorized investment under
26 this subchapter if the commercial paper:

27 (1) has a stated maturity of 270 days or fewer from the

1 date of its issuance; and

2 (2) is rated not less than A-1 or P-1 or an equivalent
3 rating by at least:

4 (A) two nationally recognized credit rating
5 agencies; or

6 (B) one nationally recognized credit rating
7 agency and is fully secured by an irrevocable letter of credit
8 issued by a bank organized and existing under the laws of the United
9 States or any state.

10 (b) An investing entity may not acquire commercial paper
11 that is exempted from registration under federal securities law by
12 Section 4(2) of the Securities Act of 1933.

13 SECTION 7. Chapter 2256, Texas Government Code is amended
14 by amending Section 2256.016(a), (c) and (f) and adding Section
15 2256.016(i), (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 the 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 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 fund mutual fund must

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

12 (i) If the investment pool operates an Internet website, the
13 information described in subsections (b), (c) and (f) of this
14 section must be posted on the website.

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

19 (k) If an investment pool offers fee breakpoints based on
20 fund balances invested, in advertising investment rates the
21 investment pool 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 8. Section 2256.019, Texas Government Code, is
25 repealed.

26 SECTION 9. Chapter 2256, Texas Government Code is amended
27 by adding Section 2256.0202 to read as follows:

1 Sec. 2256.0202. AUTHORIZED INVESTMENTS; FUNDS FROM
2 MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS.

3 (a) In addition to the investments authorized by this
4 subchapter, a local government may invest funds received by the
5 local government from leases and contracts executed for the
6 management and development of lands owned by the local government
7 and leased for oil, gas, and other mineral development in any
8 investment authorized under powers granted under Subtitle B, Title
9 9, Property Code (Texas Trust Code).

10 (b) Funds invested by a local government in accordance with
11 powers granted by the Texas Trust Code shall be segregated and
12 accounted for separately from other funds of the local government.

13 SECTION 10. Chapter 2256, Texas Government Code is amended
14 by amending Section 2256.023(b) to read as follows:

15 (b) The report must:

16 (1) describe in detail the investment position of the
17 entity on the date of the report;

18 (2) be prepared jointly by all investment officers of
19 the entity;

20 (3) be signed by each investment officer of the
21 entity;

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

25 (A) beginning market value for the reporting
26 period;

27 (B) [~~additions and changes to the market value~~

1 ~~during the period]~~ ending market value for the period; and
2 [~~(D)~~] (C) fully accrued interest for the
3 reporting period;

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

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

9 (7) state the account or fund or pooled group fund in
10 the state agency or local government for which each individual
11 investment was acquired; and

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

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

16 (B) relevant provisions of this chapter.

17 SECTION 11. EFFECTIVE DATE. This Act takes effect
18 immediately if it receives a vote of two-thirds of all the members
19 elected to each house, as provided by Section 39, Article III, Texas
20 Constitution. If this Act does not receive the vote necessary for
21 immediate effect, this Act takes effect September 1, 2009.