

BILL ANALYSIS

Senate Research Center
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H.B. 2226
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Public Funds Investment Act (Act), which governs the investment of government funds in Texas, requires governmental bodies in Texas to adopt investment policies and to designate an investment officer who is required to attend an approved investment training course. This Act also provides a detailed listing of authorized investments for public funds. Failure to make timely changes in the law to keep the law current with changes in the investment industry generally hinders governmental entities in their efforts to best serve the public. H.B. 2226 updates the Act and helps state and local governmental entities in Texas better manage public funds by making the act more reflective of the changes in the investment and securities industry to increase transparency and disclosure in the investment of public funds.

H.B. 2226 amends current law relating to authorized investments for governmental entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2256.005(b), Government Code, as follows:

- (b) Requires that the investment policies include procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021 (Effect of Loss of Required Rating).

SECTION 2. Amends Section 2256.007(d), Government Code, to provide that an investment officer is required to attend a training session not less than once each state fiscal biennium, rather than not less than once in a two-year period, and is authorized to receive training from any independent source approved by the governing body of the state agency.

SECTION 3. Amends Sections 2256.008(a) and (b), Government Code, as follows:

- (a) Requires the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government, except as provided by Subsections (b) (relating to entities with fewer than five full-time employees) and (e) (relating to non-applicability of certain districts), to:

- (1) Makes no changes to this subdivision; and

- (2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) Authorizes an investing entity created under authority of Section 52(b) (relating to authorizing any county, political subdivision of a county, number of adjoining counties, political subdivision of the State, or defined district to issue bonds or otherwise lend its credit in any amount not to exceed a certain amount), Article III (Legislative Department), or Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds to satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date.

SECTION 4. Amends Section 2256.009(a), Government Code, as follows:

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

(1)-(3) Makes no changes to these subdivisions;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including 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; and

(5)-(6) Makes no changes to these subdivisions.

SECTION 5. Amends Section 2256.010(b), Government Code, as follows:

(b) Provides that, in addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025 (Selection of Authorized Brokers), or a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) 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;

(3) 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; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1) or an entity described by Section 2257.041(d), as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Deletes existing text providing that at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured

depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1).

SECTION 6. Amends Section 2256.016, Government Code, by amending Subsections (a), (c), and (f), and adding Subsections (i), (j), and (k), as follows:

- (a) Authorizes an investment pool to invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.
- (c) Requires that an investment pool, to maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, furnish to the investment officer or other authorized representative of the entity certain information, including the yield and expense ratio of the pool, including a statement regarding how yield is calculated;
- (f) Requires that a public funds investment pool created to function as a money market mutual fund, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.
- (i) Requires that the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) , if the investment pool operates an Internet website, be posted on the website.
- (j) Requires that an investment pool, to maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.
- (k) Requires that the investment pool in advertising investment rates, if an investment pool offers fee breakpoints based on fund balances invested, 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.

SECTION 7. Amends Section 2256.019, Government Code, to delete existing text requiring that a public funds investment pool be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

SECTION 8. Amends Section 2256.023(b), Government Code, as follows:

- (b) Requires that the report:
 - (1)-(3) Makes no changes to these subdivisions;
 - (4) contain a summary statement of each pooled fund group that states the beginning market value for the reporting period, ending market value for the period, and fully accrued interest for the reporting period, rather than contain a summary statement, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states certain the beginning market value for the reporting period, additions and changes to the market value during the period, ending market value for the period, and fully accrued interest for the reporting period;
 - (5) state the book value and market value of each separately invested asset at the end of the reporting period, rather than the beginning and end of the reporting period, by the type of asset and fund type invested; and

(6)-(8) Makes no changes to these subdivisions.

SECTION 9. Effective date: upon passage or September 1, 2011.