

BILL ANALYSIS

C.S.H.B. 2226

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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Public Funds Investment 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. The 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. C.S.H.B. 2226 seeks to update the Public Funds Investment Act and help 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.

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. 2226 amends the Government Code to require the written investment policy adopted by the governing body of an investing entity regarding the investment of its funds and funds under its control to include procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with existing requirements for the liquidation of investments that do not have the minimum rating required.

C.S.H.B. 2226 clarifies that the two-year period in which a state agency governing board member and investment officer is required to attend at least one training session is a state fiscal biennium. The bill specifies that the two-year period in which the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government is required to attend at least one investment training session and in which an officer of the governing body of an investing entity created under constitutional provisions governing certain limited purpose special districts and conservation and reclamation districts must attend four hours of appropriate instruction is 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.

C.S.H.B. 2226 includes among the authorized investments for a governmental entity 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. The bill authorizes a governmental entity to invest in certificates of deposit if the funds are invested through a broker that has its main office or a branch office in Texas, is selected from a list adopted by the entity of qualified brokers that are authorized to engage in investment transactions with the entity, and meets the deposit requirements applicable to a depository institution that is authorized to make similar investments of the entity's funds in certificates of deposits. The bill authorizes the investing governmental entity to appoint as the entity's custodian with respect to the certificates of deposit a state or

national bank meeting certain criteria, the Texas Treasury Safekeeping Trust Company, a federal reserve bank or a branch of such bank, a federal home loan bank, or a financial institution authorized to execute fiduciary powers that is designated by the comptroller of public accounts as a custodian. The bill removes, as a condition for authorizing a governmental entity's investment in certificates of deposit through a depository institution, the condition that the selected depository institution receive an amount of deposits from customers of other federally insured depository institutions that is, at the time that the funds are deposited and the certificates of deposit are issued for the entity's account, equal to or greater than the amount of the funds invested by the entity through the depository institution.

C.S.H.B. 2226 authorizes an investment pool in which a governmental entity has invested to invest its funds in money market mutual funds to the extent permitted by and consistent with applicable statutory provisions and the investment policies and objectives adopted by the investment pool. The bill, in provisions setting out requirements for an investment pool to maintain eligibility to receive funds from and invest funds on behalf of a governmental entity, requires the investment pool's monthly report to contain a statement regarding how the pool's yield is calculated. 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 regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds. The bill requires the information in a disclosure instrument or report to be posted on an investment pool's Internet website if the pool operates such a website. The bill requires an investment pool, to maintain its eligibility to receive funds from and invest funds on behalf of a 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 the investment pool, in advertising investment rates, if an 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. 2226 removes a 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. The bill, in provisions relating to a required quarterly report prepared by an investment officer and submitted to a governing body of the entity relating to transactions for all investment funds, removes requirements that a summary statement of each pooled fund group in the report be prepared in compliance with generally accepted accounting principles, that the statement include additions and changes to the market value during the period, and that the summary state the book value and market value of each separately invested asset at the beginning of the reporting period by the type of asset and fund type invested. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2226 differs from the original by incorporating its provisions relating to authorized investments in certificates of deposit for a governmental entity into existing statutory language, whereas the original incorporated those provisions into new statutory language. The substitute contains conforming changes relating to this change.

C.S.H.B. 2226 contains a provision not included in the original authorizing an investing governmental entity to appoint as the entity's custodian, with respect to the deposit of certificates of deposit, a state or national bank meeting certain criteria, the Texas Treasury Safekeeping Trust Company, a federal reserve bank or a branch of such bank, a federal home loan bank, or a financial institution authorized to execute fiduciary powers that is designated by the comptroller of public accounts as a custodian.

C.S.H.B. 2226 contains a provision not included in the original, removing as a condition for authorizing a governmental entity's investment in certificates of deposit through a depository institution, the condition that the selected institution receive deposits from customers of other federally insured depository institutions, at the time the funds are deposited and the certificates of deposit are issued for the entity's account, in an amount equal to or greater than the amount of the funds invested by the entity through the depository institution.