

**House Bill 2226**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION \_\_. Sec. 12.027, Agriculture Code, is amended by adding Subsection (d) to read as follows:  
(d) In addition to a program described under Subsection (a), the department may actively seek funding to establish and administer additional economic development programs for the benefit of the state. [FA2]

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 delivery versus payment basis; and
    - (F) 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.

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

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

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

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

(1) attend at least one training session 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 and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; 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

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SECTION 2. Same as House version.

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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) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, 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 may 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. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

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

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

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

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

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

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instrumentality of the United States;

(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;

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

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

SECTION 5. Section 2256.010(b), Government Code, is amended to read as follows:

(b) 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) 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; or

(B) 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

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SECTION 5. Section 2256.010(b), Government Code, is amended to read as follows:

(b) 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) 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; or

(B) 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

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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),

[aets] as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity[; ~~and~~  
~~[(5) 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 (4)].~~

No equivalent provision.

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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), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3), [aets] as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity[; ~~and~~  
~~[(5) 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 (4)].~~ [FA1(1),(2)]

SECTION \_\_. Section 2256.011(a), Government Code, is amended to read as follows:  
(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:  
(1) has a defined termination date;  
(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and  
(3) requires the securities being purchased by the entity or

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cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and  
(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state. [FA1(3)]

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

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may 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) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

- (1) investment transaction confirmations; and
- (2) a monthly report that contains, at a minimum, the following information:
  - (A) the types and percentage breakdown of securities in which the pool is invested;
  - (B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

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(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;  
(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;  
(E) the size of the pool;  
(F) the number of participants in the pool;  
(G) the custodian bank that is safekeeping the assets of the pool;  
(H) a listing of daily transaction activity of the entity participating in the pool;  
(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;  
(J) the portfolio managers of the pool; and  
(K) any changes or addenda to the offering circular.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

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

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<p>(j) <u>To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.</u></p> <p>(k) <u>If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must 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.</u></p>		
<p>SECTION 7. Section 2256.019, Government Code, is amended to read as follows:</p> <p>Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service <del>[or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days].</del></p>	<p>SECTION 7. Same as House version.</p>	
<p>SECTION 8. Section 2256.023(b), Government Code, is amended to read as follows:</p> <p>(b) The report must:</p> <p>(1) describe in detail the investment position of the entity on the date of the report;</p> <p>(2) be prepared jointly by all investment officers of the entity;</p> <p>(3) be signed by each investment officer of the entity;</p> <p>(4) contain a summary statement<del>[-, prepared in compliance with generally accepted accounting principles,]</del> of each pooled fund group that states the:</p> <p>(A) beginning market value for the reporting period;</p>	<p>SECTION 8. Same as House version.</p>	

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<p>(B) <del>[additions and changes to the market value during the period;</del></p> <p><del>[(C)]</del> ending market value for the period; and</p> <p><del>(C) [(D)]</del> fully accrued interest for the reporting period;</p> <p>(5) state the book value and market value of each separately invested asset at the <del>[beginning and]</del> end of the reporting period by the type of asset and fund type invested;</p> <p>(6) state the maturity date of each separately invested asset that has a maturity date;</p> <p>(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and</p> <p>(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:</p> <p>(A) the investment strategy expressed in the agency's or local government's investment policy; and</p> <p>(B) relevant provisions of this chapter.</p> <p>SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.</p>	<p>SECTION 9. Same as House version.</p>	