

BILL ANALYSIS

H.B. 2340
By: Parker
Economic & Small Business Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas has experienced robust population growth in recent years and this growth trend is expected to continue into the future. Interested parties report that there is concern that this anticipated growth will place a severe strain on Texas' existing infrastructure, specifically in the areas of road construction, water, and energy delivery. Interested parties contend it is important for Texas to search for creative and innovative ways to finance improvements to the state's existing infrastructure. H.B. 2340 seeks to encourage the investment of public and private capital into infrastructure improvement investment opportunities in Texas.

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

H.B. 2340 amends the Government Code to establish the Texas First Investment Fund to invest in energy, transportation, water, and other infrastructure in Texas that is expected to produce revenue, including toll roads, and to attract capital to invest in that infrastructure. The bill creates the fund as a trust fund outside the state treasury to be held and managed by the board as trustee on behalf of persons investing in the fund. The bill specifies that, except as otherwise provided by its provisions, the fund is subject to the general laws of Texas governing private sector trusts.

H.B. 2340 specifies that the fund consists of public and private investment capital invested in exchange for securities issued by the fund and is an authorized investment for the governing boards of the permanent university fund, the permanent school fund, the Teacher Retirement System of Texas, the Employees Retirement System of Texas, and any other pension system created under the Texas Constitution or other laws of Texas, another state, or the United States. The bill specifies that securities issued by the fund are payable from income and returns realized from fund investments and are not general obligations of or otherwise guaranteed or repayable by the state.

H.B. 2340 establishes the composition of the board and board member requirements and provides for the appointment of board members by the governor. The bill requires the board to control and oversee the fund and to manage the investment of the fund and includes a list of authorized board actions. The bill requires the board to operate the fund to the extent practicable under generally accepted business procedures and to value the investments for determining the purchase or sales price of participating shares of investors in the fund consistent with investment contracts.

H.B. 2340 requires the investment manager, defined by the bill as the nonprofit corporation contracted by the board to manage the investments of the fund, to be organized as a nonprofit corporation under the Business Organizations Code. The bill specifies that the investment manager is not a state agency and that the board of directors of the investment manager are not

state employees. The bill requires the board to enter into a contract with the investment manager for the investment manager to invest the fund's assets.

H.B. 2340 requires the board, through the investment manager, to ensure that assets of the fund are invested in accordance with a certain investment strategy that maximizes the total investment return to the investors. The bill requires all investments of fund assets to be directly related to developing or maintaining infrastructure located or to be located in Texas that has the potential for producing a return on investment for fund investors. The bill authorizes the investments to include investments in equity or debt security, or a combination of equity and debt security, for the initial construction, expansion, or modernization of infrastructure in Texas.

H.B. 2340 requires all income and returns realized on investments to be retained in the fund until distributed to investors. The bill requires the board to ensure that income and returns realized on investments are distributed on a quarterly basis to each investor in the fund in proportion to the number of participating shares of each investor. The bill authorizes the distributions to be in the form of coupons, cash yields, or other forms determined by the board and investment manager. The bill requires the board to review the activities of the investment manager to ensure compliance with the investment strategy and operating guidelines provided by the bill's provisions.

H.B. 2340 requires the governor, not later than the 30th day after the bill's effective date, to appoint the board members of the fund.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.