BILL ANALYSIS

Senate Research Center   S.B. 581
                                                                                                    By: Carona
                                                                                          Business & Commerce
                                                                                                     7/19/2013
                                                                                                      Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is a strong public interest in the safety and management of public funds. For this reason, Texas and a number of other states have instituted laws to safeguard public funds. Under current Texas law, a depository institution is required to pledge securities to collateralize public funds deposited in excess of the per-account Federal Deposit Insurance Corporation deposit insurance limit, which currently stands at $250,000. Once a depository institution pledges its collateral to a state public entity, the law requires that an approved custodian step in to hold and "safe keep" the collateral on behalf of the public entity.

In recent years, many custodian banks have moved away from a paper process and adopted a web-driven electronic system, in which a member depository institution could process custodial requests via a secure online network. In doing so, a depository institution would instantaneously receive trust receipts issued to both the depository institution and the public entity. Given that the secure network is accessible only to the depository institution, the depository institution prints the trust receipts and forwards them to the corresponding public entity.

While this process is efficient for both the depository institution and the public entity, it is not consistent with the procedures for the issuance and delivery of trust receipts mandated by the Texas Public Funds Collateral Act, which protects and governs public fund deposits.

S.B. 581 seeks to align custodial obligations pertaining to the issuance and delivery of trust receipts with generally accepted business practices. S.B. 581 allows the custodian to deliver the trust receipt not only to the public entity, but also to the depository institution. Additionally, the bill provides that upon a public entity's request, the custodian must provide a current list of all investment securities pledged to the public entity.

S.B. 581 amends current law related to procedures for securing the deposit of public funds.

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 2257.045, Government Code, as follows:

> (a) Creates this subsection from existing text and makes a nonsubstantive change.

> (b) Requires the custodian, for a deposit of funds under Subchapter F (Pooled Collateral to Secure), to issue and deliver a trust receipt for the pledged security to the comptroller of public accounts of the State of Texas (comptroller).

> (c) Requires the custodian, for any deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, to:

>> (1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

Makes nonsubstantive changes.

(d) Requires the custodian to issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

SECTION 2. Amends Section 2257.046, Government Code, by adding Subsection (d), as follows:

(d) Requires the public entity's custodian, at the request of the appropriate public entity officer, to provide a current list of all pledged investment securities. Requires that the list, for each pledged investment security, include:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

SECTION 3. Effective date: upon passage or September 1, 2013.