

By: Parker

H.B. No. 2340

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas First Investment Fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490D to read as follows:

CHAPTER 490D. TEXAS FIRST INVESTMENT FUND

Sec. 490D.001. DEFINITIONS. In this chapter:

(1) "Board" means the board established by Section 490D.004 to control and manage the fund.

(2) "Fund" means the Texas First Investment Fund created under this chapter.

(3) "Investment manager" means the nonprofit corporation contracted by the board to manage the investments of the fund.

(4) "Security" means an instrument, including a bond, certificate, note, or other type of obligation authorized to be issued by an issuer and that complies with:

(A) applicable federal securities laws and regulations; and

(B) applicable state securities laws, including rules.

Sec. 490D.002. PURPOSE. The Texas First Investment Fund is established to invest in energy, transportation, water, and other infrastructure in this state that is expected to produce revenue,

1 including toll roads, and to attract capital to invest in that
2 infrastructure.

3 Sec. 490D.003. TEXAS FIRST INVESTMENT FUND. (a) The Texas
4 First Investment Fund is created as a trust fund outside the state
5 treasury to be held and managed by the board as trustee on behalf of
6 persons investing in the fund.

7 (b) Except as otherwise provided by this chapter, the fund
8 is subject to the general laws of this state governing private
9 sector trusts.

10 (c) The fund consists of public and private investment
11 capital invested in exchange for securities issued by the fund. The
12 fund is an authorized investment for the governing boards of the
13 permanent university fund, the permanent school fund, the Teacher
14 Retirement System of Texas, the Employees Retirement System of
15 Texas, and any other pension system created under the Texas
16 Constitution or other laws of this state, another state, or the
17 United States.

18 (d) Securities issued by the fund are payable from income
19 and returns realized from fund investments and are not general
20 obligations of or otherwise guaranteed or repayable by this state.

21 Sec. 490D.004. BOARD. (a) The fund is managed by a board of
22 five members appointed by the governor, three of whom are public
23 sector investment fund managers and two of whom are private sector
24 investment fund managers.

25 (b) A member of the board must have demonstrated substantial
26 investment expertise.

27 (c) A member of the board serves at the pleasure of the

1 governor.

2 (d) The board shall control and oversee the fund and manage
3 the investment of the fund. To perform those functions, the board,
4 subject to the requirements of this chapter, may:

5 (1) employ and retain staff, including a chief
6 executive officer;

7 (2) analyze and structure investments;

8 (3) set the investment policy of the fund;

9 (4) take any action necessary for the creation,
10 administration, and protection of the fund;

11 (5) enter into investment contracts with the
12 participating funds, systems, and other prospective investors;

13 (6) pay fund expenses based on an assessment on
14 investor contributions; and

15 (7) contract for the management of investments with a
16 nonprofit corporation.

17 (e) The board shall operate the fund to the extent
18 practicable under generally accepted business procedures and shall
19 value the investments for determining the purchase or sales price
20 of participating shares of investors in the fund consistent with
21 investment contracts.

22 Sec. 490D.005. INVESTMENT MANAGER. (a) The investment
23 manager must be organized as a nonprofit corporation under the
24 Business Organizations Code. The investment manager is not a state
25 agency, and the board of directors of the investment manager are not
26 state employees.

27 (b) The board shall enter into a contract with the

1 investment manager for the investment manager to invest the assets
2 of the fund.

3 Sec. 490D.006. INVESTMENT STRATEGY; AUTHORIZED
4 INVESTMENTS. (a) The board, through the investment manager, shall
5 ensure that assets of the fund are invested in accordance with the
6 investment strategy under this section.

7 (b) Fund assets shall be invested according to an investment
8 strategy that maximizes the total investment return to the
9 investors. In making investments, the investment manager shall
10 exercise the judgment and care under the circumstances then
11 prevailing that persons of ordinary prudence, discretion, and
12 intelligence exercise in the management of their own affairs, not
13 in regard to speculation but in regard to the permanent disposition
14 of their funds, considering the probable income as well as the
15 probable safety of the capital of the fund.

16 (c) Fund assets shall be invested in a manner that leverages
17 the resources and investing experience of public and private sector
18 investors by making investments on terms that are necessary and
19 reasonably calculated to attract significant investment by those
20 investors, both from inside and outside this state, and in such a
21 way as to maximize the aggregate capital used to develop
22 infrastructure in this state.

23 (d) All investments of fund assets must be directly related
24 to developing or maintaining infrastructure located or to be
25 located in this state that has the potential for producing a return
26 on investment for fund investors. The investments may include
27 investments in equity or debt security, or a combination of equity

1 and debt security, for the initial construction, expansion, or
2 modernization of infrastructure in this state.

3 Sec. 490D.007. DISTRIBUTION OF INVESTMENT RETURNS. (a)
4 All income and returns realized on investments shall be retained in
5 the fund until distributed to investors.

6 (b) The board shall ensure that income and returns realized
7 on investments are distributed on a quarterly basis to each
8 investor in the fund in proportion to the number of participating
9 shares of each investor. The distributions may be in the form of
10 coupons, cash yields, or other forms determined by the board and
11 investment manager.

12 Sec. 490D.008. OVERSIGHT. The board shall review the
13 activities of the investment manager to ensure compliance with the
14 investment strategy and operating guidelines provided by this
15 chapter.

16 SECTION 2. Not later than the 30th day after the effective
17 date of this Act, the governor shall appoint the members of the
18 board of the Texas First Investment Fund under Section 490D.004,
19 Government Code, as added by this Act.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2013.