

By: Capriglione

H.B. No. 4209

Substitute the following for H.B. No. 4209:

By: Pickett

C.S.H.B. No. 4209

A BILL TO BE ENTITLED

1 AN ACT

2 relating to investment of public funds.

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

4 SECTION 1. Section [2256.009](#)(a), Government Code, is amended  
5 to read as follows:

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

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

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

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

16 (4) other obligations, the principal and interest of  
17 which are unconditionally guaranteed or insured by, or backed by  
18 the full faith and credit of, this state or the United States or  
19 their respective agencies and instrumentalities, including  
20 obligations that are fully guaranteed or insured by the Federal  
21 Deposit Insurance Corporation or by the explicit full faith and  
22 credit of the United States;

23 (5) obligations of states, agencies, counties,  
24 cities, and other political subdivisions of any state rated as to

1 investment quality by a nationally recognized investment rating  
2 firm not less than A or its equivalent; ~~and~~

3 (6) bonds issued, assumed, or guaranteed by the State  
4 of Israel; and

5 (7) interest-bearing banking deposits that are  
6 guaranteed or insured by:

7 (A) the Federal Deposit Insurance Corporation or  
8 its successor; or

9 (B) the National Credit Union Share Insurance  
10 Fund or its successor.

11 SECTION 2. Section 2256.010, Government Code, is amended by  
12 adding Subsection (c) to read as follows:

13 (c) An investment in negotiable certificates of deposit  
14 issued by a bank that has a certificate of deposit rating of at  
15 least 1 or the equivalent by a nationally recognized credit rating  
16 agency, or that is associated with a holding company having a  
17 commercial paper rating of at least A-1, P-1, or the equivalent by a  
18 nationally recognized credit rating agency, is an authorized  
19 investment under this subchapter.

20 SECTION 3. Section 2256.011, Government Code, is amended by  
21 adding Subsection (e) to read as follows:

22 (e) Section 1371.059(c) applies to the execution of a  
23 repurchase agreement by an investing entity.

24 SECTION 4. Section 2256.014(a), Government Code, is amended  
25 to read as follows:

26 (a) A no-load money market mutual fund is an authorized  
27 investment under this subchapter if the mutual fund:

1           (1) is registered with and regulated by the Securities  
2 and Exchange Commission;

3           (2) provides the investing entity with a prospectus  
4 and other information required by the Securities Exchange Act of  
5 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act  
6 of 1940 (15 U.S.C. Section 80a-1 et seq.);

7           (3) complies with federal Securities and Exchange  
8 Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated  
9 under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et  
10 seq.) [~~has a dollar-weighted average stated maturity of 90 days or~~  
11 ~~fewer~~]; and

12           (4) includes in its investment objectives the  
13 maintenance of a [~~stable~~] net asset value determined in accordance  
14 with federal Securities and Exchange Commission Rule 2a-7 (17  
15 C.F.R. Section 270.2a-7), promulgated under the Investment Company  
16 Act of 1940 (15 U.S.C. Section 80a-1 et seq.) [~~of \$1 for each~~  
17 ~~share~~].

18           SECTION 5. Section [2256.015](#), Government Code, is amended by  
19 adding Subsection (d) to read as follows:

20           (d) Section [1371.059](#)(c) applies to the execution of a  
21 guaranteed investment contract by an investing entity.

22           SECTION 6. Sections [2256.016](#)(b), (f), and (h), Government  
23 Code, are amended to read as follows:

24           (b) To be eligible to receive funds from and invest funds on  
25 behalf of an entity under this chapter, an investment pool must  
26 furnish to the investment officer or other authorized  
27 representative of the entity an offering circular or other similar

1 disclosure instrument that contains, at a minimum, the following  
2 information:

3 (1) the types of investments in which money is allowed  
4 to be invested;

5 (2) the maximum average dollar-weighted maturity  
6 allowed, based on the stated maturity date, of the pool;

7 (3) the maximum stated maturity date any investment  
8 security within the portfolio has;

9 (4) the objectives of the pool;

10 (5) the size of the pool;

11 (6) the names of the members of the advisory board of  
12 the pool and the dates their terms expire;

13 (7) the custodian bank that will safekeep the pool's  
14 assets;

15 (8) whether the intent of the pool is to maintain a net  
16 asset value of one dollar and the risk of market price fluctuation;

17 (9) whether the only source of payment is the assets of  
18 the pool at market value or whether there is a secondary source of  
19 payment, such as insurance or guarantees, and a description of the  
20 secondary source of payment;

21 (10) the name and address of the independent auditor  
22 of the pool;

23 (11) the requirements to be satisfied for an entity to  
24 deposit funds in and withdraw funds from the pool and any deadlines  
25 or other operating policies required for the entity to invest funds  
26 in and withdraw funds from the pool; ~~and~~

27 (12) the performance history of the pool, including

1 yield, average dollar-weighted maturities, and expense ratios; and  
2 (13) the pool's policy regarding holding deposits in  
3 cash.

4 (f) To be eligible to receive funds from and invest funds on  
5 behalf of an entity under this chapter, a public funds investment  
6 pool created to function as a money market mutual fund must mark its  
7 portfolio to market daily, and, to the extent reasonably possible,  
8 stabilize at a \$1 net asset value. If the ratio of the market value  
9 of the portfolio divided by the book value of the portfolio is less  
10 than 0.995 or greater than 1.005, the governing body of the public  
11 funds investment pool shall take action as the body determines  
12 necessary to eliminate or reduce any dilution or unfair result to  
13 existing participants, including a sale of portfolio holdings to  
14 attempt [~~shall be sold as necessary~~] to maintain the ratio between  
15 0.995 and 1.005. In addition to the requirements of its investment  
16 policy and any other forms of reporting, a public funds investment  
17 pool created to function as a money market mutual fund shall report  
18 yield to its investors in accordance with regulations of the  
19 federal Securities and Exchange Commission applicable to reporting  
20 by money market funds.

21 (h) To maintain eligibility to receive funds from and invest  
22 funds on behalf of an entity under this chapter, an investment pool  
23 must be continuously rated no lower than the highest liquidity  
24 rating given to United States Treasury obligations [~~AAA or AAA-m or~~  
25 ~~at an equivalent rating~~] by at least one nationally recognized  
26 rating service.

27 SECTION 7. Section [2256.019](#), Government Code, is amended to

1 read as follows:

2           Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A  
3 public funds investment pool must be continuously rated no lower  
4 than the highest liquidity rating given to United States Treasury  
5 obligations [~~AAA or AAA-m or at an equivalent rating~~] by at least  
6 one nationally recognized rating service.

7           SECTION 8. Subchapter A, Chapter 2256, Government Code, is  
8 amended by adding Section 2256.0206 to read as follows:

9           Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING  
10 TRANSACTIONS. (a) In this section:

11                   (1) "Eligible entity" means a state agency or  
12 political subdivision that is an issuer as defined by Section  
13 1371.001.

14                   (2) "Hedging" means acting to protect against economic  
15 loss due to price fluctuation of an investment by entering into an  
16 offsetting position in a related security or by using a financial  
17 agreement.

18                   (b) This section prevails to the extent of any conflict  
19 between this section and an eligible entity's municipal charter, if  
20 applicable.

21                   (c) The governing body of an eligible entity shall establish  
22 its policy regarding hedging transactions.

23                   (d) An eligible entity may enter into hedging contracts and  
24 related security and insurance agreements related to commodities  
25 investments used in the general operations of an eligible entity or  
26 used in connection with the acquisition or construction of a  
27 capital project by the eligible entity. A hedging transaction must

1 comply with the regulations of the federal Commodity Futures  
2 Trading Commission and the federal Securities and Exchange  
3 Commission.

4 (e) An eligible entity may credit any amount the entity  
5 receives under a hedging contract or agreement against expenses  
6 associated with a commodity purchase.

7 (f) An eligible entity's payment under a hedging contract or  
8 agreement may be considered to be:

9 (1) an operation and maintenance expense of the  
10 eligible entity;

11 (2) an acquisition expense of the eligible entity; or

12 (3) a construction expense of the eligible entity.

13 SECTION 9. The changes in law made by this Act apply only to  
14 authorized investments of public funds governed by Chapter 2256,  
15 Government Code, as amended by this Act, that are made on or after  
16 the effective date of this Act. An authorized investment of public  
17 funds made before the effective date of this Act is governed by the  
18 law in effect immediately before that date, and that law is  
19 continued in effect for that purpose.

20 SECTION 10. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2015.