

By: Capriglione

H.B. No. 4209

A BILL TO BE ENTITLED

AN ACT

relating to the investment of public funds.

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

SECTION 1. Subsection (a) of Section 2256.010, Government Code, is amended by deleting "and" at the end of clause (5), changing the period at the end of clause (6) to "; and", and adding a new clause (7), to read as follows:

"(7) interest-bearing banking deposits that are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor."

SECTION 2. Section 2256.010, Government Code, is amended by adding a new subsection (c), to read as follows:

"(c) In addition to the authority to invest funds in certificates of deposit under Subsections (a) and (b), an investment in certificates of deposit made in accordance with Section 2256.020(2) is an authorized investment under this section."

SECTION 3. Subsection (a), Clause (4), Section 2256.014, Government Code, is amended to read as follows:

(3) complies with Rule 2a-7, promulgated by the United States Securities and Exchange Commission ~~has a dollar weighted average stated maturity of 90 days or fewer, and~~

(4) includes in its investment objectives the

1 maintenance of ~~stable~~ net asset value ~~of \$1 for each~~ shares  
2 determined in accordance with Rule 2a-7, promulgated by the United  
3 States Securities and Exchange Commission.

4 SECTION 4. Subsection (c), Clause (2), Section 2256.015,  
5 Government Code, is amended to read as follows:

6 "(2) the entity must receive bids from at least two  
7 [~~three~~] separate providers with no material financial interest in  
8 the bonds from which proceeds were received;"

9 SECTION 5. Section 2256.011, Government Code, is amended by  
10 adding a new subsection (e), to read as follows:

11 "(e) The repurchase agreement may provide that the  
12 investing entity may agree to waive sovereign immunity from suit or  
13 liability for the purpose of adjudicating a claim to enforce the  
14 repurchase agreement or for damages for breach of the repurchase  
15 agreement."

16 SECTION 6. Section 2256.015, Government Code, is amended by  
17 adding a new subsection (d), to read as follows:

18 "(d) The guaranteed investment contract may provide that  
19 the investing entity may agree to waive sovereign immunity from  
20 suit or liability for the purpose of adjudicating a claim to enforce  
21 the guaranteed investment contract or for damages for breach of the  
22 guaranteed investment contract."

23 SECTION 7. Subsection (b), Section 2256.016, Government  
24 Code, is amended to renumber current subsections (6) through (12)  
25 as subsections (7) through (13), and to add a new clause (6), to  
26 read as follows:

27 "(6) its policy as to holding deposits in cash;"

1 SECTION 8. Subsections (f) and (h), Section 2256.016,  
2 Government Code, are amended to read as follows:

3 "(f) To be eligible to receive funds from and invest funds  
4 on behalf of an entity under this chapter, a public funds investment  
5 pool ~~created to function as a money market mutual fund~~ must mark its  
6 portfolio to market daily, and, to the extent reasonably possible,  
7 stabilize at a \$1 net asset value. If the ratio of the market value  
8 of the portfolio divided by the book value of the portfolio is less  
9 than 0.995 or greater than 1.005, the governing body of the public  
10 funds investment pool shall take such action as it may determine is  
11 necessary to eliminate or reduce to the extent reasonably  
12 practicable any dilution or unfair results to existing  
13 participants, including the sale of portfolio holdings [~~shall be~~  
14 ~~sold as necessary~~] to attempt to maintain the ratio between 0.995  
15 and 1.005."

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

22 SECTION 9. Section 2256.019, Government Code, is amended to  
23 read as follows:

24 "A public funds investment pool must be continuously rated no  
25 lower than the highest liquidity rating given to United States  
26 Treasury obligations [~~AAA or AAA m or at an equivalent rating~~] by at  
27 least one nationally recognized rating service."

1 SECTION 10. Chapter 2256, Government Code, is amended by  
2 adding a new section 2256.02015, to read as follows:

3 "Sec. 2256.02015. Authorized Investments: Eligible  
4 Entities.

5 (a) An eligible entity may enter into hedging contracts, and  
6 related security and insurance agreements, to protect against  
7 economic loss related to price fluctuations of commodities used in  
8 the general operations of the eligible entity or used in connection  
9 with the acquisition or construction of capital projects by the  
10 eligible entity. A hedging transaction must comply with the  
11 regulations of the Commodity Futures Trading Commission and the  
12 Securities and Exchange Commission. If there is a conflict between  
13 the municipal charter of the eligible entity and this chapter, this  
14 chapter prevails.

15 (b) A payment by an eligible entity under a hedging contract  
16 may be considered: (i) an operation and maintenance expense of the  
17 eligible entity; (ii) an acquisition expense of the eligible  
18 entity; or (iii) a construction expense of the eligible entity. The  
19 eligible entity may credit any amount it receives under the  
20 contract or agreement against expenses associated with commodity  
21 purchases.

22 (c) The governing body of the eligible entity may set policy  
23 regarding hedging transactions.

24 (d) As used in this section:

25 (1) "Eligible entity" means those state agencies and  
26 political subdivisions described in Section 1371.001(4),  
27 Government Code; and

1           (2) "Hedging" means entering into an offsetting  
2 position in a related security or using a financial agreement as a  
3 protection against loss due to price fluctuation."

4           SECTION 11. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2015.