

BILL ANALYSIS

C.S.H.B. 855
By: Capriglione
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the earning potential of the economic stabilization fund can be increased by changing the fund's investment strategy. C.S.H.B. 855 seeks to achieve this increase by providing for the management and investment of the economic stabilization fund and the Texas legacy distribution fund, including the determination of a sufficient balance within the economic stabilization fund.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 855 repeals Government Code provisions relating to the determination of a sufficient economic stabilization fund balance, the adjustment of constitutional allocations to the economic stabilization fund and the state highway fund, and the investment of certain economic stabilization fund balances. The bill amends the Government Code to authorize the comptroller of public accounts, in managing the assets of the Texas stabilization account in the economic stabilization fund, the Texas legacy account in the economic stabilization fund, and the Texas legacy distribution fund, through procedures and subject to restrictions the comptroller establishes for each account or fund and in amounts the comptroller considers appropriate for each account or fund, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the account or fund, taking into consideration the investment of all the assets of the account or fund rather than a single investment. The bill exempts the investment of the assets in such an account or fund from statutory provisions relating to the authorized investment of state funds.

C.S.H.B. 855 establishes the investment objectives and purposes of the Texas stabilization account in the economic stabilization fund as the preservation of the account's principal, the purchasing power of the account's principal, and the liquidity of the account. The bill establishes the investment objectives and purposes of the Texas legacy account in the economic stabilization fund as the generation of earnings on the account's principal to maintain the purchasing power of that principal and if possible increase that purchasing power and to provide for predictable and stable annual earnings distributions to the Texas legacy distribution fund.

C.S.H.B. 855 requires the comptroller, on or after the first day but before the 90th day of a state fiscal year and for the purpose of making certain transfers of money required under the Texas Constitution in relation to the economic stabilization fund, to determine for that fiscal year the amount of the sufficient balance of the Texas stabilization account in the economic stabilization fund. The bill sets the amount of the sufficient balance at an amount equal to eight percent of the certified general revenue-related appropriations for the state fiscal biennium during which the determination is made.

C.S.H.B. 855 repeals the following provisions of the Government Code:

- Section 316.091
- Section 316.092
- Section 316.093
- Section 404.0241

EFFECTIVE DATE

January 1, 2018, if a certain constitutional amendment is approved by the voters.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 855 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 404.0241(a) and (b), Government Code, are amended to read as follows:

(a) The comptroller shall invest the balance ~~[a percentage]~~ of the economic stabilization fund ~~[balance in a state fiscal biennium]~~ that exceeds an [the] amount equal to 30 percent of the maximum authorized ~~[of the sufficient]~~ balance of the fund for the applicable state fiscal biennium as prescribed by Section 49-g(g), Article III, Texas Constitution, [adopted under Section 316.092 for that biennium] in accordance with the investment standard described by Section 404.024(j). The comptroller's investment of that ~~[percentage of the]~~ excess balance is not subject to any other limitation or other requirement provided by Section 404.024.

(b) The comptroller shall adjust the investment portfolio of economic stabilization fund money periodically to ensure that, as appropriated money is withdrawn or money is otherwise transferred from the fund or as the maximum authorized balance of the fund as prescribed by Section 49-g(g), Article III,

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

Texas Constitution, changes, only the balance of the fund that exceeds the amount specified by Subsection (a) is invested in a manner that does not comply with all limitations and other requirements of Section 404.024 [is sufficient to meet the cash flow requirements of the fund].

No equivalent provision.

SECTION 1. Subchapter C, Chapter 404, Government Code, is amended by adding Sections 404.0242 and 404.0243 to read as follows:

Sec. 404.0242. MANAGEMENT AND INVESTMENT OF ECONOMIC STABILIZATION FUND ACCOUNTS AND TEXAS LEGACY DISTRIBUTION FUND. (a) This section applies only to the following accounts and fund established under Section 49-g, Article III, Texas Constitution:

- (1) the Texas stabilization account in the economic stabilization fund;
- (2) the Texas legacy account in the economic stabilization fund; and
- (3) the Texas legacy distribution fund.

(b) In managing the assets of an account or fund to which this section applies, the comptroller, through procedures and subject to restrictions the comptroller establishes for each account or fund and in amounts the comptroller considers appropriate for each account or fund, may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the account or fund, taking into consideration the investment of all the assets of the account or fund rather than a single investment.

(c) Section 404.024 does not apply to the investment of the assets of an account or fund to which this section applies.

Sec. 404.0243. INVESTMENT OBJECTIVES AND PURPOSES OF ECONOMIC STABILIZATION FUND ACCOUNTS. (a) The investment objectives and purposes of the Texas stabilization account in the economic stabilization fund are to preserve:

- (1) the account's principal;
- (2) the purchasing power of the account's

principal; and

(3) the liquidity of the account.

(b) The investment objectives and purposes of the Texas legacy account in the economic stabilization fund are to generate earnings on the account's principal to:

(1) maintain the purchasing power of that principal and if possible, increase that purchasing power; and

(2) provide for predictable and stable annual earnings distributions to the Texas legacy distribution fund.

No equivalent provision.

SECTION 2. Subchapter E, Chapter 404, Government Code, is amended by adding Section 404.074 to read as follows:

Sec. 404.074. SUFFICIENT BALANCE OF TEXAS STABILIZATION ACCOUNT.

For the purpose of making the transfers of money required by Section 49-g, Article III, Texas Constitution, on or after the first day but before the 90th day of a state fiscal year, the comptroller shall determine for that fiscal year the amount of the sufficient balance of the Texas stabilization account in the economic stabilization fund. The amount of the sufficient balance is equal to eight percent of the certified general revenue-related appropriations for the state fiscal biennium during which the determination is made.

SECTION 2. Sections 404.0241(c) and (d), Government Code, are repealed.

SECTION 3. Sections 316.091, 316.092, 316.093, and 404.0241, Government Code, are repealed.

SECTION 3. The comptroller of public accounts shall adjust the investment portfolio of economic stabilization fund money as soon as possible after the effective date of this Act to ensure that the investment of that money complies with Section 404.0241, Government Code, as amended by this Act.

No equivalent provision.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 4. This Act takes effect January 1, 2018, but only if the constitutional amendment proposed by __J.R. No.____, 85th Legislature, Regular Session, 2017, is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.