

BILL ANALYSIS

C.S.H.B. 1701
By: Parker
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the written acknowledgement that certain business entities who provide non-advisory services to political subdivisions under the Public Funds Investment Act are required to execute stating that the entity has implemented reasonable procedures and controls to prevent unauthorized investments is too broad in scope for certain business entities. C.S.H.B. 1701 seeks to reduce confusion by revising the types of business entities that are subject to the acknowledgement requirement and certain content of the acknowledgement.

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. 1701 amends the Government Code to change the entities to which a written copy of the investment policy adopted by the governing body of certain investing entities subject to the Public Funds Investment Act is required to be presented from any person offering to engage in an investment transaction with such an investing entity, or an investment management firm under contract with such an investing entity to invest or manage the entity's investment portfolio, to any business organization so offering. The bill redefines "business organization," for these purposes and the purposes of certain other requirements and prohibitions regarding such an organization that offers to engage in an investment transaction with such an investing entity, as an investment pool or such an investment management firm that has accepted authority granted by the investing entity under contract to exercise investment discretion in regard to the investing entity's funds. The bill specifies that a business organization's required written acknowledgement to such an investing entity that the organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy is not required to account for the extent such authorization relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1701 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 2256.005(k) and (l), Government Code, are amended to read as follows:

(k) A written copy of the investment policy shall be presented to any business organization ~~[person]~~ offering to engage in an investment transaction with an investing entity ~~[or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio]~~. For purposes of this subsection and Subsection (l), "business organization" ~~means an [a business organization includes]~~ investment pool or ~~[pools and an]~~ investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

- (1) received and reviewed the investment policy of the entity; and
- (2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

- (l) The investment officer of an entity may

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 2256.005(k) and (l), Government Code, are amended to read as follows:

(k) A written copy of the investment policy shall be presented to any business organization ~~[person]~~ offering to engage in an investment transaction with an investing entity ~~[or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio]~~. For purposes of this subsection and Subsection (l), "business organization" ~~means an [a business organization includes]~~ investment pool or ~~[pools and an]~~ investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

- (1) received and reviewed the investment policy of the entity; and
- (2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) ~~[or]~~ requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

- (l) The investment officer of an entity may

not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that [~~person who~~] has not delivered to the entity the instrument required by Subsection (k).

SECTION 2. The changes in law made by this Act apply only to a contract for an investment transaction entered into with a business organization under Chapter 2256, Government Code, on or after the effective date of this Act. A contract entered into before the effective date of this Act is subject to the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that [~~person who~~] has not delivered to the entity the instrument required by Subsection (k).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.