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H.B. No. 1003

A BILL TO BE ENTITLED

AN ACT

relating to investment of public funds.

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

SECTION 1. Section 2256.004(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least \$150 [~~\$95~~] million in book value on September 1, 2017 [~~May 1, 1995~~];

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

SECTION 2. Section 2256.009(a), Government Code, is amended to read as follows:

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

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

3 (2) direct obligations of this state or its agencies
4 and instrumentalities;

5 (3) collateralized mortgage obligations directly
6 issued by a federal agency or instrumentality of the United States,
7 the underlying security for which is guaranteed by an agency or
8 instrumentality of the United States;

9 (4) other obligations, the principal and interest of
10 which are unconditionally guaranteed or insured by, or backed by
11 the full faith and credit of, this state or the United States or
12 their respective agencies and instrumentalities, including
13 obligations that are fully guaranteed or insured by the Federal
14 Deposit Insurance Corporation or by the explicit full faith and
15 credit of the United States;

16 (5) obligations of states, agencies, counties,
17 cities, and other political subdivisions of any state rated as to
18 investment quality by a nationally recognized investment rating
19 firm not less than A or its equivalent; ~~and~~

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

22 (7) interest-bearing banking deposits that are
23 guaranteed or insured by:

24 (A) the Federal Deposit Insurance Corporation or
25 its successor; or

26 (B) the National Credit Union Share Insurance
27 Fund or its successor.

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

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

5 SECTION 4. Sections 2256.014(a) and (b), Government Code,
6 are amended to read as follows:

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

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

11 (2) provides the investing entity with a prospectus
12 and other information required by the Securities Exchange Act of
13 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act
14 of 1940 (15 U.S.C. Section 80a-1 et seq.); and

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

20 [~~(4) includes in its investment objectives the~~
21 ~~maintenance of a stable net asset value of \$1 for each share]~~.

22 (b) In addition to a no-load money market mutual fund
23 permitted as an authorized investment in Subsection (a), a no-load
24 mutual fund is an authorized investment under this subchapter if
25 the mutual fund:

26 (1) is registered with the Securities and Exchange
27 Commission;

1 (2) has an average weighted maturity of less than two
2 years; and

3 (3) either:

4 (A) has a duration of one year or more and is
5 invested exclusively in obligations approved by this subchapter; or

6 (B) has a duration of less than one year and the
7 investment portfolio is limited to investment grade securities,
8 excluding asset-backed securities

9 ~~[(4) is continuously rated as to investment quality by~~
10 ~~at least one nationally recognized investment rating firm of not~~
11 ~~less than AAA or its equivalent; and~~

12 ~~[(5) conforms to the requirements set forth in~~
13 ~~Sections 2256.016(b) and (c) relating to the eligibility of~~
14 ~~investment pools to receive and invest funds of investing~~
15 ~~entities].~~

16 SECTION 5. Section 2256.015, Government Code, is amended by
17 adding Subsection (d) to read as follows:

18 (d) Section 1371.059(c) applies to the execution of a
19 guaranteed investment contract by an investing entity.

20 SECTION 6. Sections 2256.016(b) and (f), Government Code,
21 are amended to read as follows:

22 (b) To be eligible to receive funds from and invest funds on
23 behalf of an entity under this chapter, an investment pool must
24 furnish to the investment officer or other authorized
25 representative of the entity an offering circular or other similar
26 disclosure instrument that contains, at a minimum, the following
27 information:

- 1 (1) the types of investments in which money is allowed
2 to be invested;
- 3 (2) the maximum average dollar-weighted maturity
4 allowed, based on the stated maturity date, of the pool;
- 5 (3) the maximum stated maturity date any investment
6 security within the portfolio has;
- 7 (4) the objectives of the pool;
- 8 (5) the size of the pool;
- 9 (6) the names of the members of the advisory board of
10 the pool and the dates their terms expire;
- 11 (7) the custodian bank that will safekeep the pool's
12 assets;
- 13 (8) whether the intent of the pool is to maintain a net
14 asset value of one dollar and the risk of market price fluctuation;
- 15 (9) whether the only source of payment is the assets of
16 the pool at market value or whether there is a secondary source of
17 payment, such as insurance or guarantees, and a description of the
18 secondary source of payment;
- 19 (10) the name and address of the independent auditor
20 of the pool;
- 21 (11) the requirements to be satisfied for an entity to
22 deposit funds in and withdraw funds from the pool and any deadlines
23 or other operating policies required for the entity to invest funds
24 in and withdraw funds from the pool; ~~and~~
- 25 (12) the performance history of the pool, including
26 yield, average dollar-weighted maturities, and expense ratios; and
- 27 (13) the pool's policy regarding holding deposits in

1 cash.

2 (f) To be eligible to receive funds from and invest funds on
 3 behalf of an entity under this chapter, a public funds investment
 4 pool that uses amortized cost or fair value accounting [~~created to~~
 5 ~~function as a money market mutual fund~~] must mark its portfolio to
 6 market daily, and, to the extent reasonably possible, stabilize at
 7 a \$1.00 [~~\$1~~] net asset value, when rounded and expressed to two
 8 decimal places. If the ratio of the market value of the portfolio
 9 divided by the book value of the portfolio is less than 0.995 or
 10 greater than 1.005, the governing body of the public funds
 11 investment pool shall take action as the body determines necessary
 12 to eliminate or reduce to the extent reasonably practicable any
 13 dilution or unfair result to existing participants, including a
 14 sale of portfolio holdings to attempt [~~shall be sold as necessary~~]
 15 to maintain the ratio between 0.995 and 1.005. In addition to the
 16 requirements of its investment policy and any other forms of
 17 reporting, a public funds investment pool that uses amortized cost
 18 [~~created to function as a money market mutual fund~~] shall report
 19 yield to its investors in accordance with regulations of the
 20 federal Securities and Exchange Commission applicable to reporting
 21 by money market funds.

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

24 Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING
 25 TRANSACTIONS. (a) In this section:

26 (1) "Eligible entity" means a state agency or
 27 political subdivision that is an issuer as defined by Section

1 1371.001.

2 (2) "Eligible project" has the meaning assigned by
3 Section 1371.001.

4 (3) "Hedging" means acting to protect against economic
5 loss due to price fluctuation of a commodity or related investment
6 by entering into an offsetting position or using a financial
7 agreement or producer price agreement in a correlated security,
8 index, or other commodity.

9 (b) This section prevails to the extent of any conflict
10 between this section and:

11 (1) another law; or

12 (2) an eligible entity's municipal charter, if
13 applicable.

14 (c) The governing body of an eligible entity shall establish
15 the entity's policy regarding hedging transactions.

16 (d) An eligible entity may enter into hedging transactions,
17 including hedging contracts, and related security, credit, and
18 insurance agreements in connection with commodities used by an
19 eligible entity in the entity's general operations, with the
20 acquisition or construction of a capital project, or with an
21 eligible project. A hedging transaction must comply with the
22 regulations of the federal Commodity Futures Trading Commission and
23 the federal Securities and Exchange Commission.

24 (e) An eligible entity may pledge as security for and to the
25 payment of a security, credit, or insurance agreement related to a
26 hedging contract any revenue the entity is authorized by law or an
27 agreement to pledge to the payment of any other obligation.

1 (f) Section 1371.059(c) applies to the execution by an
2 eligible entity of a hedging contract and any related security,
3 credit, or insurance agreement.

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

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

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

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

12 (3) a project cost of an eligible project; or

13 (4) a construction expense of the eligible entity.

14 SECTION 8. The changes in law made by this Act apply only to
15 authorized investments of public funds governed by Chapter 2256,
16 Government Code, as amended by this Act, that are made on or after
17 the effective date of this Act. An authorized investment of public
18 funds made before the effective date of this Act is governed by the
19 law in effect immediately before that date, and that law is
20 continued in effect for that purpose.

21 SECTION 9. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2017.