

By: Capriglione

H.B. No. 1003

Substitute the following for H.B. No. 1003:

By: Burrows

C.S.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 2256.009(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) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

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

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

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

(5) obligations of states, agencies, counties, 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 2256.011, Government Code, is amended by
12 adding Subsection (e) to read as follows:

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

15 SECTION 3. Sections 2256.014(a) and (b), Government Code,
16 are amended to read as follows:

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

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

21 (2) provides the investing entity with a prospectus
22 and other information required by the Securities Exchange Act of
23 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act
24 of 1940 (15 U.S.C. Section 80a-1 et seq.); and

25 (3) complies with federal Securities and Exchange
26 Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated
27 under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et

1 seq.) [~~has a dollar-weighted average stated maturity of 90 days or~~
2 ~~fewer; and~~

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

5 (b) In addition to a no-load money market mutual fund
6 permitted as an authorized investment in Subsection (a), a no-load
7 mutual fund is an authorized investment under this subchapter if
8 the mutual fund:

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

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

13 (3) either:

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

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

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

22 [~~(5) conforms to the requirements set forth in~~
23 ~~Sections 2256.016(b) and (c) relating to the eligibility of~~
24 ~~investment pools to receive and invest funds of investing~~
25 ~~entities]~~.

26 SECTION 4. Section 2256.015, Government Code, is amended by
27 adding Subsection (d) to read as follows:

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

3 SECTION 5. Sections 2256.016(b), (f), and (h), Government
4 Code, are amended to read as follows:

5 (b) To be eligible to receive funds from and invest funds on
6 behalf of an entity under this chapter, an investment pool must
7 furnish to the investment officer or other authorized
8 representative of the entity an offering circular or other similar
9 disclosure instrument that contains, at a minimum, the following
10 information:

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

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

15 (3) the maximum stated maturity date any investment
16 security within the portfolio has;

17 (4) the objectives of the pool;

18 (5) the size of the pool;

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

21 (7) the custodian bank that will safekeep the pool's
22 assets;

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

25 (9) whether the only source of payment is the assets of
26 the pool at market value or whether there is a secondary source of
27 payment, such as insurance or guarantees, and a description of the

1 secondary source of payment;

2 (10) the name and address of the independent auditor
3 of the pool;

4 (11) the requirements to be satisfied for an entity to
5 deposit funds in and withdraw funds from the pool and any deadlines
6 or other operating policies required for the entity to invest funds
7 in and withdraw funds from the pool; ~~and~~

8 (12) the performance history of the pool, including
9 yield, average dollar-weighted maturities, and expense ratios; and

10 (13) the pool's policy regarding holding deposits in
11 cash.

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

1 and Exchange Commission applicable to reporting by money market
2 funds.

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

9 SECTION 6. Section [2256.019](#), Government Code, is amended to
10 read as follows:

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

16 SECTION 7. Subchapter A, Chapter [2256](#), Government Code, is
17 amended by adding Section 2256.0206 to read as follows:

18 Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING
19 TRANSACTIONS. (a) In this section:

20 (1) "Eligible entity" means a state agency or
21 political subdivision that is an issuer as defined by Section
22 [1371.001](#).

23 (2) "Eligible project" has the meaning assigned by
24 Section [1371.001](#).

25 (3) "Hedging" means acting to protect against economic
26 loss due to price fluctuation of a commodity or related investment
27 by entering into an offsetting position or using a financial

1 agreement or producer price agreement in a correlated security,
2 index, or other commodity.

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

5 (1) another law; or

6 (2) an eligible entity's municipal charter, if
7 applicable.

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

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

18 (e) A hedging contract and any security, credit, or
19 insurance agreement related to a hedging contract, including a
20 letter of credit reimbursement agreement, may not have a term that
21 exceeds five years. An eligible entity may pledge as security for
22 and to the payment of an agreement described by this subsection any
23 revenue the entity is authorized by law to pledge to the payment of
24 any other obligation.

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

1 (g) An eligible entity may credit any amount the entity
2 receives under a hedging contract against expenses associated with
3 a commodity purchase.

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

6 (1) an operation and maintenance expense of the
7 eligible entity;

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

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

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

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

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