

BILL ANALYSIS

Senate Research Center
86R33476 JES-F

C.S.H.B. 2706
By: Capriglione; Lambert (Nelson)
State Affairs
5/13/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Public Funds Investment Act has not kept up with the evolution of financial markets and contains internal inconsistencies that treat securities with similar risk profiles differently.

H.B. 2706 seeks to improve the ability of public entities to achieve a better return on public investments while minimizing risk by correcting inconsistencies in the Act with regard to repurchase agreements, investments in commercial paper, and the use of professionally managed investment pools. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2706 amends current law relating to authorized investments for governmental entities and a study of the investment and management of funds by public schools.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 2256.011(a) and (b), Government Code, as follows:

(a) Provides that a fully collateralized repurchase agreement is an authorized investment under this subchapter (Authorized Investments For Governmental Entities) if the repurchase agreement:

(1) makes no changes to this subdivision;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1) (relating to certain authorized investments) or 2256.013 or, if applicable, Section 2256.0204 (Authorized Investments: Independent School Districts); and

(3)–(4) makes no changes to these subdivisions.

(b) Redefines "repurchase agreement" to mean a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed.

SECTION 2. Amends Section 2256.013, Government Code, as follows:

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER. Provides that commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 365 days, rather than 270 days, or fewer from the date of its issuance; and

(2) makes no changes to this subdivision.

SECTION 3. Amends Sections 2256.016(e) and (f), Government Code, as follows:

(e) Requires "yield," in this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, to be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) Makes nonsubstantive changes. Provides that, to be eligible to receive funds from and invest funds on behalf of an entity under this chapter (Public Funds Investment):

(1) creates this subdivision from existing text and makes nonsubstantive changes; and

(2) if the investment pool uses amortized cost:

(A) the investment pool is required to, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places;

(B) the governing body of the investment pool is required to, rather than the governing body of the public funds investment pool is required to, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and

(C) the investment pool is required to, rather than a public funds investment pool that uses amortized cost is required to, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

SECTION 4. Amends Subchapter A, Chapter 2256, Government Code, by adding Section 2256.0208, as follows:

Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND PROCEEDS AND PLEDGED REVENUE. (a) Defines "pledged revenue" for purposes of this section.

(b) Authorizes the investment officer of a local government to invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:

(1) statutory provisions governing the debt issuance or the agreement, as applicable; and

(2) the local government's investment policy regarding the debt issuance or the agreement, as applicable.

SECTION 5. Repealer: Section 2256.0204(g) (relating to corporate bonds not being an eligible investment for a public funds investment pool), Government Code.

SECTION 6. (a) Requires the Texas Education Agency (TEA) to conduct a study regarding the investment and management of funds by school districts and open-enrollment charter schools.

Requires a district or school or the entity that invests or manages funds for the district or school, on request of TEA, as appropriate, to provide TEA information regarding:

(1) the district's or school's investments, including asset allocations, fees, and risks; and

(2) the district's or school's cash flow, fund balances, and other revenue sources.

(b) Requires TEA, not later than June 1, 2020, to deliver a report to the governor, lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature having primary jurisdiction over primary and secondary education that includes:

(1) the findings of the study; and

(2) any recommendations for legislative action based on the findings of the study.

(c) Provides that this section expires September 1, 2021.

SECTION 7. Effective date: September 1, 2019.