S.B. No. 1138

AN ACT

relating to securities contracts entered into by the Texas Treasury Safekeeping Trust Company.

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

SECTION 1.  Section 404.103, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  The trust company may enter into contracts, trust agreements, or other fiduciary instruments with the comptroller, the Federal Reserve System, a depository trust company, and other third parties. The trust company shall be liable under those contracts in accordance with the terms contained in the contracts. Notwithstanding any other statute to the contrary, to the extent permitted by the Texas Constitution and the contracts, trust agreements, or other fiduciary instruments between the trust company, the Federal Reserve System, and a depository trust company, the trust company's obligations shall be guaranteed by the state, and the state expressly waives all defenses of governmental immunity by and on behalf of the trust company, the comptroller, and the state, and expressly consents to sue and be sued in federal court or in any court of competent jurisdiction. However, this provision does not alter or affect the immunity accorded to state officials and employees under state law. The trust company may enter into contracts with the comptroller and the Federal Reserve System to provide any services that the Federal Reserve System makes available, including:

(1)  safekeeping book-entry United States Treasury and agency securities owned by the state and its agencies;

(2)  using the federal reserve wire transfer system to transfer money and book-entry securities and to settle securities transactions involving book-entry United States Treasury and agency securities owned by the state and its agencies;

(3)  collecting, through the Federal Reserve System, checks deposited with the treasury;

(4)  receiving payments from and making payments to the federal government on behalf of the state and its agencies;

(5)  originating automated clearinghouse transactions or other electronic transfers to make payments on behalf of the state and its agencies, collecting revenues due the state and its agencies, and transferring money between state depositories;

(6)  paying warrants drawn on the treasury and presented through the Federal Reserve System for payment; and

(7)  safekeeping collateral pledged to secure deposits of public funds.

(b-1)  In this subsection, "securities contract" includes direct security repurchase agreements, reverse security repurchase agreements, and related custody agreements. The trust company may enter into trust agreements, fiduciary instruments, or other contracts as principal or as trustee, with the comptroller and other third parties. The trust company shall be liable under the agreements, instruments, or contracts in accordance with the terms contained in the agreements, instruments, or contracts. Notwithstanding any other statute to the contrary, to the extent permitted by the Texas Constitution and the contracts, the trust company's obligations under securities contracts between the trust company and third parties shall be guaranteed by the state with, and only to the extent of, the reserve balances held by the trust company under Section 404.105, and for those securities contracts, the state expressly waives all defenses of governmental immunity by and on behalf of the trust company, and expressly consents by and on behalf of the trust company to sue and be sued in federal court or in any court of competent jurisdiction. However, this provision does not alter or affect the immunity accorded to state officials and employees under state law.

SECTION 2.  Section 404.104(b), Government Code, is amended to read as follows:

(b)  The comptroller may enter into contracts, trust agreements, and other instruments with the trust company as provided by Section 404.103 [~~404.103(b)~~].

SECTION 3.  The changes in law made by this Act apply only to an agreement, instrument, or contract entered into on or after the effective date of this Act. An agreement, instrument, or contract entered into before the effective date of this Act is subject to the law in effect on the date that the agreement, instrument, or contract was entered into, and that law is continued in effect for that purpose.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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I hereby certify that S.B. No. 1138 passed the Senate on April 26, 2019, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 25, 2019, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 1138 passed the House, with amendment, on May 22, 2019, by the following vote: Yeas 135, Nays 9, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor