

By: Watson
(Wray)

S.B. No. 1138

Substitute the following for S.B. No. 1138:

By: Vo

C.S.S.B. No. 1138

A BILL TO BE ENTITLED

1 AN ACT
2 relating to securities contracts entered into by the Texas Treasury
3 Safekeeping Trust Company.

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

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

8 (b) The trust company may enter into contracts, trust
9 agreements, or other fiduciary instruments with the comptroller,
10 the Federal Reserve System, a depository trust company, and other
11 third parties. The trust company shall be liable under those
12 contracts in accordance with the terms contained in the contracts.
13 Notwithstanding any other statute to the contrary, to the extent
14 permitted by the Texas Constitution and the contracts, trust
15 agreements, or other fiduciary instruments between the trust
16 company, the Federal Reserve System, and a depository trust
17 company, the trust company's obligations shall be guaranteed by the
18 state, and the state expressly waives all defenses of governmental
19 immunity by and on behalf of the trust company, the comptroller, and
20 the state, and expressly consents to sue and be sued in federal
21 court or in any court of competent jurisdiction. However, this
22 provision does not alter or affect the immunity accorded to state
23 officials and employees under state law. The trust company may
24 enter into contracts with the comptroller and the Federal Reserve

1 System to provide any services that the Federal Reserve System
2 makes available, including:

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

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

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

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

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

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

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

21 (b-1) In this subsection, "securities contract" includes
22 direct security repurchase agreements, reverse security repurchase
23 agreements, and related custody agreements. The trust company may
24 enter into trust agreements, fiduciary instruments, or other
25 contracts as principal or as trustee, with the comptroller and
26 other third parties. The trust company shall be liable under the
27 agreements, instruments, or contracts in accordance with the terms

1 contained in the agreements, instruments, or contracts.
2 Notwithstanding any other statute to the contrary, to the extent
3 permitted by the Texas Constitution and the contracts, the trust
4 company's obligations under securities contracts between the trust
5 company and third parties shall be guaranteed by the state with, and
6 only to the extent of, the reserve balances held by the trust
7 company under Section 404.105, and for those securities contracts,
8 the state expressly waives all defenses of governmental immunity by
9 and on behalf of the trust company, and expressly consents by and on
10 behalf of the trust company to sue and be sued in federal court or in
11 any court of competent jurisdiction. However, this provision does
12 not alter or affect the immunity accorded to state officials and
13 employees under state law.

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

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

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

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2019.