

By: Watson, et al.

S.B. No. 1659

A BILL TO BE ENTITLED

AN ACT

relating to the management of the permanent school fund by the School Land Board and the State Board of Education and a study regarding distributions from the permanent school fund to the available school fund.

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

SECTION 1. Chapter 43, Education Code, is amended by adding Section 43.0052 to read as follows:

Sec. 43.0052. QUARTERLY REPORTS. Each quarter, the State Board of Education shall provide to the School Land Board a financial report on the portion of the permanent school fund assets and funds for which the State Board of Education is responsible. The report must include:

(1) target and actual asset allocations, by asset type, based on fair market value or net asset value;

(2) investment performance by asset type; and

(3) benchmarks and benchmark performances.

SECTION 2. Subchapter C, Chapter 32, Natural Resources Code, is amended by adding Section 32.068 to read as follows:

Sec. 32.068. QUARTERLY REPORTS. Each quarter, the board shall provide to the State Board of Education a financial report on the portion of the permanent school fund assets and funds for which the board is responsible. The report must include:

(1) target and actual asset allocations, by asset

1 type, based on fair market value or net asset value;

2 (2) investment performance by asset type; and

3 (3) benchmarks and benchmark performances.

4 SECTION 3. Section 51.011, Natural Resources Code, is
5 amended by amending Subsections (a) and (a-1) and adding Subsection
6 (a-3) to read as follows:

7 (a) Any land, [~~mineral or royalty interest,~~] real estate
8 investment, or other interest, including revenue received from
9 those sources, and any mineral or royalty interest that is set apart
10 to the permanent school fund under the constitution and laws of this
11 state together with the mineral estate in riverbeds, channels, and
12 the tidelands, including islands, shall be subject to the sole and
13 exclusive management and control of the [~~school land~~] board and the
14 commissioner under the provisions of this chapter and other
15 applicable law.

16 (a-1) The board may acquire, sell, lease, trade, improve,
17 maintain, protect, or otherwise manage, control, or use land,
18 [~~mineral and royalty interests,~~] real estate investments, or other
19 interests, including revenue received from those sources, and any
20 mineral or royalty interests that are set apart to the permanent
21 school fund in any manner, at such prices, and under such terms and
22 conditions as the board finds to be in the best interest of the
23 fund.

24 (a-3) During the state fiscal biennium that begins
25 September 1, 2019, half of all revenue received from mineral or
26 royalty interests described by Subsection (a), including bonus
27 payments, surface lease revenues, royalties, and any other type of

1 revenue received from those interests, shall be transferred each
2 month to the State Board of Education for investment in the
3 permanent school fund, and the remainder may be designated for
4 deposit in the real estate special fund account under Section
5 51.401(a). This subsection expires September 1, 2021.

6 SECTION 4. Section 51.401, Natural Resources Code, is
7 amended by amending Subsection (a) and adding Subsections (c) and
8 (d) to read as follows:

9 (a) The board may designate money [~~funds~~] received from any
10 land, mineral or royalty interest, real estate investment, or other
11 interest, including revenue received from those sources, that is
12 set apart to the permanent school fund under the constitution and
13 laws of this state together with the mineral estate in riverbeds,
14 channels, and the tidelands, including islands, for deposit in the
15 real estate special fund account of the permanent school fund in the
16 State Treasury to be used by the board as provided by this
17 subchapter.

18 (c) Each quarter, the board shall provide a cashflow report
19 to the State Board of Education that specifies the source and uses
20 of all money designated under Subsection (a) and the amount of time
21 that money from each specific source has remained in the real estate
22 special fund account.

23 (d) Notwithstanding Subsection (a), during the state fiscal
24 biennium that begins September 1, 2019, the board shall transfer
25 half of all revenue received from mineral or royalty interests to
26 the State Board of Education, as provided by Section 51.011(a-3).
27 This subsection expires September 1, 2021.

1 SECTION 5. Section 51.402(b), Natural Resources Code, is
2 amended to read as follows:

3 (b) Before using funds under Subsection (a), the board must
4 determine, using the prudent investor standard, that the use of the
5 funds for the intended purpose is authorized by Subsection (a) and
6 in the best interest of the permanent school fund. [~~A determination
7 by the board on the use of funds under this section is conclusive
8 unless the determination was made as a result of fraud or obvious
9 error.~~]

10 SECTION 6. Section 51.412, Natural Resources Code, is
11 amended to read as follows:

12 Sec. 51.412. REPORTS TO LEGISLATURE. [~~(a)~~] Not later than
13 October [~~September~~] 1 of each [~~even-numbered~~] year, the board shall
14 submit to the legislature a report that includes [~~, specifically and
15 in detail, assesses the direct and indirect economic impact, as
16 anticipated by the board, of the investment of funds designated
17 under Section 51.401 for deposit in the real estate special fund
18 account of the permanent school fund. The board may not disclose
19 information under this section that is confidential under
20 applicable state or federal law. The report must include~~] the
21 following information for the most recent state fiscal year:

22 (1) the total amount of money received under this
23 chapter, the sources of that money, and the amount designated under
24 [~~by~~] Section 51.401 for deposit in the real estate special fund
25 account of the permanent school fund that the board intends to use
26 for each purpose authorized under that section [~~invest~~];

27 (2) [~~the rate of return the board expects to attain on~~

1 ~~the investment,~~

2 ~~[(3)]~~ the amount of money the board expects to
3 distribute to the available school fund or the State Board of
4 Education for investment in the permanent school fund under Section
5 51.413 ~~[after making the investments];~~

6 (3) ~~[(4)]~~ the distribution by location of
7 investments, including the actual or expected revenues from the
8 investments, that were acquired by the board for the use and benefit
9 of the permanent school fund in the most recent state fiscal year
10 ~~[of the board's investments by county];~~

11 ~~[(5) the effect of the board's investments on the level~~
12 ~~of employment, personal income, and capital investment in the~~
13 ~~state,]~~ and

14 (4) ~~[(6)]~~ any other information the board considers
15 necessary to include in the report.

16 ~~[(b) Not later than January 1 of each odd-numbered year, the~~
17 ~~board shall submit to the legislature a report that assesses the~~
18 ~~return and economic impact of the investments reported to the~~
19 ~~legislature before the preceding regular legislative session.]~~

20 SECTION 7. Section 51.413, Natural Resources Code, is
21 amended to read as follows:

22 Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND
23 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.

24 (a) The board shall ~~[may]~~, by a resolution made in accordance with
25 this section and adopted at a regular meeting, release from the real
26 estate special fund account funds previously designated under
27 Section 51.401 or managed, used, or encumbered under Section 51.402

1 or Section 51.4021 to be deposited in the State Treasury to the
2 credit of:

- 3 (1) the available school fund; or
- 4 (2) the State Board of Education for investment in the
5 permanent school fund.

6 (b) The board shall adopt rules to establish the procedure
7 that will be used by the board to determine the dates that transfers
8 ~~[date a transfer]~~ will be made ~~[and the amount of money that will be~~
9 ~~transferred]~~ to the available school fund or to the State Board of
10 Education for investment in the permanent school fund from the real
11 estate special fund account as provided by this section ~~[Subsection~~
12 ~~(a)]~~.

13 (c) On the dates established by rules adopted under
14 Subsection (b), the board shall release from the real estate
15 special fund account a total amount for the state fiscal biennium
16 that equals the amount determined under Subsection (d)(3). The
17 board may release a higher amount if authorized under the Texas
18 Constitution.

19 (d) Not later than July 31 of each even-numbered year, the
20 chief investment officer of the land office, or other land office
21 employee designated by the commissioner, shall determine the
22 following:

- 23 (1) an amount based on the average market value, for a
24 16-calendar-quarter measurement period ending on March 31 of that
25 year, of the permanent school fund discretionary real assets
26 investments and cash derived from property belonging to the fund
27 and managed by the board that is determined by averaging the market

1 value of those investments and cash on the last day of each of the
2 calendar quarters in that 16-calendar-quarter measurement period,
3 multiplying that average market value by 0.06, and rounding the
4 result up or down to the nearest \$5 million increment;

5 (2) an amount based on the average quarterly change of
6 the investments and cash described by Subdivision (1), for the
7 16-calendar-quarter measurement period ending on March 31 of that
8 year, that is determined by averaging the change in market value
9 from the last day of a calendar quarter to the last day of the
10 subsequent calendar quarter, multiplying that average quarterly
11 change by four, and rounding the result up or down to the nearest \$5
12 million increment; and

13 (3) the sum of the amounts determined under
14 Subdivisions (1) and (2).

15 SECTION 8. Section 51.4131, Natural Resources Code, is
16 amended to read as follows:

17 Sec. 51.4131. REPORT ON ANTICIPATED TRANSFER OF FUNDS;
18 DEADLINE. (a) Not later than September 1 of each even-numbered
19 year, the board shall submit to the legislature, comptroller, State
20 Board of Education, and Legislative Budget Board a report that,
21 specifically and in detail, states the date a transfer will be made
22 and the amount of money the board will transfer during the
23 subsequent state fiscal biennium from the real estate special fund
24 account of the permanent school fund established under Section
25 51.401 to the available school fund or the State Board of Education
26 for investment in the permanent school fund.

27 (b) The board shall make any transfer described in a report

1 under Subsection (a) not later than September 1 of the next
2 even-numbered year.

3 SECTION 9. Subchapter I, Chapter 51, Natural Resources
4 Code, is amended by adding Section 51.414 to read as follows:

5 Sec. 51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT.

6 (a) The permanent school fund liquid account is established as an
7 account in the permanent school fund in the State Treasury to be
8 used by the board and the State Board of Education as provided by
9 this section.

10 (b) Each quarter, the board shall hold a meeting and adopt a
11 resolution to release from the real estate special fund account
12 funds designated under Section 51.401 that are not being used for a
13 purpose listed in Section 51.402(a) and are not required for the
14 board's anticipated cash needs for the 90-day period following the
15 date of the meeting, to be deposited to the credit of the permanent
16 school fund liquid account in the State Treasury.

17 (c) The State Board of Education may invest funds in the
18 permanent school fund liquid account. The investments may be made
19 only in liquid assets in the same manner that the permanent school
20 fund is managed by the State Board of Education.

21 (d) Investment income and realized capital gains derived
22 from funds in the permanent school fund liquid account shall be
23 deposited in the State Treasury to the credit of the State Board of
24 Education for investment in the permanent school fund. This
25 subsection does not require a deposit if the market value of the
26 assets held in the permanent school fund liquid account is below
27 cost.

1 (e) The State Board of Education may use funds in the
2 permanent school fund liquid account to pay for administrative
3 costs associated with implementing this section, including costs
4 associated with contracts for professional investment management,
5 investment advisory services, or custodial services.

6 (f) The board shall provide to the State Board of Education
7 in each quarterly report required by Section 32.068 the board's
8 anticipated cash needs for the six-month period following the date
9 of the report, to allow the State Board of Education to ensure that
10 the board's cash needs may be met as provided by Subsection (g).

11 (g) Not later than the fifth business day after the date of a
12 request of the board, the State Board of Education shall release
13 from the permanent school fund liquid account funds to be deposited
14 to the credit of the real estate special fund account in the State
15 Treasury in an amount requested by the board.

16 SECTION 10. (a) The legislature finds that the periodic
17 examination of distributions made from the permanent school fund to
18 the available school fund is necessary for the effective management
19 of permanent school fund investments.

20 (b) The Texas Education Agency shall conduct a study
21 regarding distributions from the permanent school fund to the
22 available school fund. The study must:

23 (1) examine historical patterns in the real value of
24 distributions made from all assets and revenues of the permanent
25 school fund and historical patterns in the real value of permanent
26 school fund assets relative to the number of students enrolled in
27 the public education system;

1 (2) analyze the impact of underlying data and
2 methodological assumptions on actual and projected distributions
3 from the permanent school fund;

4 (3) seek input from state government officials
5 involved in public education policy or in the appropriation of
6 state funds to support the public education system;

7 (4) examine current and alternative approaches to
8 balance the needs and interests of present and future beneficiaries
9 of the permanent school fund and the available school fund;

10 (5) develop options to maximize available revenue
11 distributions for the education of students enrolled in the public
12 education system while preserving the permanent school fund for
13 future generations; and

14 (6) consider any other subjects relevant to the
15 purpose of the study.

16 (c) The Texas Education Agency may contract for investment
17 management expertise for the purpose of implementing this section.

18 (d) Not later than June 1, 2020, the Texas Education Agency
19 shall prepare and submit a report regarding the results of the study
20 to the governor, the State Board of Education, the Legislative
21 Budget Board, the lieutenant governor, the speaker of the house of
22 representatives, and each legislative standing committee with
23 primary jurisdiction over public education.

24 (e) This section expires January 1, 2021.

25 SECTION 11. This Act takes effect September 1, 2019.