

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Capriglione, Lambert

H.B. No. 2706

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorized investments for governmental entities.

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

4 SECTION 1. Sections 2256.011(a) and (b), Government Code,  
5 are amended to read as follows:

6 (a) A fully collateralized repurchase agreement is an  
7 authorized investment under this subchapter if the repurchase  
8 agreement:

9 (1) has a defined termination date;

10 (2) is secured by a combination of cash and  
11 obligations described by Section 2256.009(a)(1) or 2256.013 or, if  
12 applicable, Section 2256.0204; [and]

13 (3) requires the securities being purchased by the  
14 entity or cash held by the entity to be pledged to the entity, held  
15 in the entity's name, and deposited at the time the investment is  
16 made with the entity or with a third party selected and approved by  
17 the entity; and

18 (4) is placed through a primary government securities  
19 dealer, as defined by the Federal Reserve, or a financial  
20 institution doing business in this state.

21 (b) In this section, "repurchase agreement" means a  
22 simultaneous agreement to buy, hold for a specified time, and sell  
23 back at a future date obligations described by Section  
24 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at

1 a market value at the time the funds are disbursed of not less than  
2 the principal amount of the funds disbursed. The term includes a  
3 direct security repurchase agreement and a reverse security  
4 repurchase agreement.

5 SECTION 2. Section 2256.013, Government Code, is amended to  
6 read as follows:

7 Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER.  
8 Commercial paper is an authorized investment under this subchapter  
9 if the commercial paper:

10 (1) has a stated maturity of 365 [~~270~~] days or fewer  
11 from the date of its issuance; and

12 (2) is rated not less than A-1 or P-1 or an equivalent  
13 rating by at least:

14 (A) two nationally recognized credit rating  
15 agencies; or

16 (B) one nationally recognized credit rating  
17 agency and is fully secured by an irrevocable letter of credit  
18 issued by a bank organized and existing under the laws of the United  
19 States or any state.

20 SECTION 3. Sections 2256.016(e) and (f), Government Code,  
21 are amended to read as follows:

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

1 (f) To be eligible to receive funds from and invest funds on  
2 behalf of an entity under this chapter:

3 (1) ~~[7]~~ a public funds investment pool that uses  
4 amortized cost or fair value accounting must mark its portfolio to  
5 market daily; ~~[7]~~ and

6 (2) if the investment pool uses amortized cost:

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

10 (B) the governing body of the investment pool  
11 must, if ~~[If]~~ the ratio of the market value of the portfolio  
12 divided by the book value of the portfolio is less than 0.995 or  
13 greater than 1.005, ~~[the governing body of the public funds~~  
14 ~~investment pool shall]~~ take action as the body determines necessary  
15 to eliminate or reduce to the extent reasonably practicable any  
16 dilution or unfair result to existing participants, including a  
17 sale of portfolio holdings to attempt to maintain the ratio between  
18 0.995 and 1.005; and

19 (C) the investment pool must, in ~~[In]~~ addition  
20 to the requirements of its investment policy and any other forms of  
21 reporting, ~~[a public funds investment pool that uses amortized cost~~  
22 ~~shall]~~ report yield to its investors in accordance with regulations  
23 of the federal Securities and Exchange Commission applicable to  
24 reporting by money market funds.

25 SECTION 4. Subchapter A, Chapter 2256, Government Code, is  
26 amended by adding Section 2256.0208 to read as follows:

27 Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND

1 PROCEEDS AND PLEDGED REVENUE. (a) In this section, "pledged  
2 revenue" means money pledged to the payment of or as security for:

3 (1) bonds or other indebtedness issued by a local  
4 government;

5 (2) obligations under a lease, installment sale, or  
6 other agreement of a local government; or

7 (3) certificates of participation in a debt or  
8 obligation described by Subdivision (1) or (2).

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

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

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

16 SECTION 5. Section 2256.0204(g), Government Code, is  
17 repealed.

18 SECTION 6. This Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

*Leta Spaw*  
Secretary of the Senate

By: Nelson

H.B. No. 2706

Substitute the following for \_\_.B. No. \_\_\_\_\_:

By: Zaffrini

C.S. H.B. No. 2706

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorized investments for governmental entities and a  
3 study of the investment and management of funds by public schools.

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

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12 obligations described by Section 2256.009(a)(1) or 2256.013 or, if  
13 applicable, Section 2256.0204; [and]

14 (3) requires the securities being purchased by the  
15 entity or cash held by the entity to be pledged to the entity, held  
16 in the entity's name, and deposited at the time the investment is  
17 made with the entity or with a third party selected and approved by  
18 the entity; and

19 (4) is placed through a primary government securities  
20 dealer, as defined by the Federal Reserve, or a financial  
21 institution doing business in this state.

22 (b) In this section, "repurchase agreement" means a  
23 simultaneous agreement to buy, hold for a specified time, and sell  
24 back at a future date obligations described by Section

1 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at  
2 a market value at the time the funds are disbursed of not less than  
3 the principal amount of the funds disbursed. The term includes a  
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13 (2) is rated not less than A-1 or P-1 or an equivalent  
14 rating by at least:

15 (A) two nationally recognized credit rating  
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17 (B) one nationally recognized credit rating  
18 agency and is fully secured by an irrevocable letter of credit  
19 issued by a bank organized and existing under the laws of the United  
20 States or any state.

21 SECTION 3. Sections 2256.016(e) and (f), Government Code,  
22 are amended to read as follows:

23 (e) In this section, for purposes of an investment pool for  
24 which a \$1.00 net asset value is maintained, "yield" shall be  
25 calculated in accordance with regulations governing the  
26 registration of open-end management investment companies under the  
27 Investment Company Act of 1940, as promulgated from time to time by

1 the federal Securities and Exchange Commission.

2 (f) To be eligible to receive funds from and invest funds on  
3 behalf of an entity under this chapter:

4 (1) [ ] a public funds investment pool that uses  
5 amortized cost or fair value accounting must mark its portfolio to  
6 market daily; [ ] and

7 (2) if the investment pool uses amortized cost:

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

11 (B) the governing body of the investment pool  
12 must, if ~~[If]~~ the ratio of the market value of the portfolio  
13 divided by the book value of the portfolio is less than 0.995 or  
14 greater than 1.005, ~~[the governing body of the public funds~~  
15 ~~investment pool shall]~~ take action as the body determines necessary  
16 to eliminate or reduce to the extent reasonably practicable any  
17 dilution or unfair result to existing participants, including a  
18 sale of portfolio holdings to attempt to maintain the ratio between  
19 0.995 and 1.005; and

20 (C) the investment pool must, in ~~[In]~~ addition  
21 to the requirements of its investment policy and any other forms of  
22 reporting, ~~[a public funds investment pool that uses amortized cost~~  
23 ~~shall]~~ report yield to its investors in accordance with regulations  
24 of the federal Securities and Exchange Commission applicable to  
25 reporting by money market funds.

26 SECTION 4. Subchapter A, Chapter 2256, Government Code, is  
27 amended by adding Section 2256.0208 to read as follows:

1           Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND  
2 PROCEEDS AND PLEDGED REVENUE. (a) In this section, "pledged  
3 revenue" means money pledged to the payment of or as security for:

4           (1) bonds or other indebtedness issued by a local  
5 government;

6           (2) obligations under a lease, installment sale, or  
7 other agreement of a local government; or

8           (3) certificates of participation in a debt or  
9 obligation described by Subdivision (1) or (2).

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

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

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

17          SECTION 5. Section 2256.0204(g), Government Code, is  
18 repealed.

19          SECTION 6. (a) The Texas Education Agency shall conduct a  
20 study regarding the investment and management of funds by school  
21 districts and open-enrollment charter schools. On request of the  
22 agency, a district or school or the entity that invests or manages  
23 funds for the district or school, as appropriate, shall provide the  
24 agency information regarding:

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

27           (2) the district's or school's cash flow, fund



1 balances, and other revenue sources.

2 (b) Not later than June 1, 2020, the Texas Education Agency  
3 shall deliver a report to the governor, the lieutenant governor,  
4 the speaker of the house of representatives, and each standing  
5 committee of the legislature having primary jurisdiction over  
6 primary and secondary education that includes:

7 (1) the findings of the study; and

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

10 (c) This section expires September 1, 2021.

11 SECTION 7. This Act takes effect September 1, 2019.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 21, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2706** by Capriglione (Relating to authorized investments for governmental entities and a study of the investment and management of funds by public schools.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Government Code to expand the types of investments that would be considered authorized investments for local government entities. The bill would direct the Texas Education Agency (TEA) to conduct a study regarding the investment and management of funds by school districts and open-enrollment charter schools.

According to the Comptroller of Public Accounts, the bill would have no administrative costs to the Office.

According to TEA, complying with the provisions of the bill relating to the study regarding the investment and management of funds would be accomplished through implementing a survey in fiscal year 2020. It is assumed that the costs associated with this survey implementation could be absorbed using existing funds.

**Local Government Impact**

According to the Bond Review Board, the fiscal implications of the bill to local government cannot be determined at this time because the extent to which local government entities would utilize the expansion of authorized types of investments cannot be estimated.

According to the Texas Municipal League, the bill is not anticipated to have a significant fiscal impact to cities.

**Source Agencies:**        701 Texas Education Agency, 304 Comptroller of Public Accounts, 352  
   Bond Review Board

**LBB Staff:** WP, CMa, SD, GP, LLo, LCO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 15, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2706** by Capriglione (relating to authorized investments for governmental entities and a study of the investment and management of funds by public schools.), **Committee Report 2nd House, Substituted**

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**Source Agencies:**        701 Texas Education Agency, 304 Comptroller of Public Accounts, 352  
Bond Review Board

**LBB Staff:** WP, CMa, SD, GP, LLo, LCO

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 10, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2706** by Capriglione (Relating to authorized investments for governmental entities.),  
**As Engrossed**

<p><b>No fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Government Code to expand the types of investments that would be considered authorized investments for local government entities.

According to the Comptroller of Public Accounts, the bill would have no administrative costs to the Office.

**Local Government Impact**

According to the Bond Review Board, the fiscal implications of the bill to local government cannot be determined at this time because the extent to which local government entities would utilize the expansion of authorized types of investments cannot be estimated.

According to the Texas Municipal League, the bill is not anticipated to have a significant fiscal impact to cities.

**Source Agencies:** 304 Comptroller of Public Accounts, 352 Bond Review Board

**LBB Staff:** WP, CMa, SD, GP, LLo, LCO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 14, 2019**

**TO:** Honorable Jim Murphy, Chair, House Committee on Pensions, Investments & Financial Services

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2706** by Capriglione (relating to authorized investments for governmental entities.),  
**Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend the Government Code to expand the types of investments that would be considered authorized investments for local government entities.

According to the Comptroller of Public Accounts, the bill would have no administrative costs to the Office.

**Local Government Impact**

According to the Bond Review Board, the fiscal implications of the bill to local government cannot be determined at this time because the extent to which local government entities would utilize the expansion of authorized types of investments cannot be estimated.

According to the Texas Municipal League, the bill is not anticipated to have a significant fiscal impact to cities.

**Source Agencies:** 304 Comptroller of Public Accounts, 352 Bond Review Board

**LBB Staff:** WP, CMa, SD, GP, LLo, LCO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 25, 2019**

**TO:** Honorable Jim Murphy, Chair, House Committee on Pensions, Investments & Financial Services

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2706** by Capriglione (Relating to local government public investment of funds.), **As Introduced**

<p><b>No fiscal implication to the State is anticipated.</b></p>
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The bill would amend the Government Code to expand the types of investments that would be considered authorized investments for local government entities.

According to the Comptroller of Public Accounts, the bill would have no administrative costs to the Office.

**Local Government Impact**

According to the Bond Review Board, the fiscal implications of the bill to local government cannot be determined at this time because the extent to which local government entities would utilize the expansion of authorized types of investments cannot be estimated.

According to the Texas Municipal League, the bill is not anticipated to have a significant fiscal impact to cities.

According to the Texas Association of Counties, the bill is expected to have a significant fiscal impact on counties, but in an amount that cannot be determined. Limiting the duration of a certificate of deposit (CD) to 365 days could be restrictive for smaller counties and court trust and registry funds which typically rely on CDs as their main investment of those funds. In addition, the requirement for the rating of CDs and the cost of getting a rating could reduce yields if banks begin to include the cost of ratings in determining the investment yield.

**Source Agencies:** 304 Comptroller of Public Accounts, 352 Bond Review Board

**LBB Staff:** WP, CMa, SD, GP, LLo, LCO