

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Murphy, Huberty, Capriglione, Zerwas,  
Shine, et al.

H.B. No. 4388

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the management of the permanent school fund by the  
3 School Land Board and the State Board of Education.

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

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

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

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

14 (2) investment performance by asset type; and

15 (3) benchmarks and benchmark performances.

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

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

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

24 (2) investment performance by asset type; and

1           (3) benchmarks and benchmark performances.

2           SECTION 3. Section 51.402(c), Natural Resources Code, is  
3 amended to read as follows:

4           (c) Notwithstanding Subsection (a), on January 1 of each  
5 even-numbered year, the market value of the investments [~~in real~~  
6 ~~estate~~] under Subsections (a)(6) and (8) [~~this section on January 1~~  
7 ~~of each even-numbered year~~] may not exceed an amount that is equal  
8 to 15 percent of the market value of the permanent school fund on  
9 that date.

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

12          Sec. 51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT. (a) The  
13 permanent school fund liquid account is established as an account  
14 in the permanent school fund in the State Treasury to be used by the  
15 board and the State Board of Education as provided by this section.

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

23          (c) The State Board of Education may invest funds in the  
24 permanent school fund liquid account. The investments may be made  
25 only in liquid assets, in the same manner that the permanent school  
26 fund is managed by the State Board of Education.

27          (d) Investment income and realized capital gains derived

1 from funds in the permanent school fund liquid account shall be  
2 deposited in the State Treasury to the credit of the State Board of  
3 Education for investment in the permanent school fund. This  
4 subsection does not require a deposit if the market value of the  
5 assets held in the permanent school fund liquid account is below  
6 cost.

7 (e) The State Board of Education may use funds in the  
8 permanent school fund liquid account to pay for administrative  
9 costs associated with implementing this section, including costs  
10 associated with contracts for professional investment management,  
11 investment advisory services, or custodial services.

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

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

22 SECTION 5. This Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

*Henry Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: 

1 Amend H.B. No. 4388 (senate committee printing), in SECTION 1  
2 of the bill, in added Section 43.0052, Education Code, as follows:

3 (1) On page 1, line 33, strike "and".

4 (2) On page 1, line 34, between "performances" and the  
5 underlined period, insert the following:

6 ; and

7 (4) costs of implementing and administering the  
8 permanent school fund liquid account under Section 51.414, Natural  
9 Resources Code, including costs associated with contracts for:

10 (A) professional investment management;

11 (B) investment advisory services; and

12 (C) custodial services for the account

ADOPTED

MAY 22 2019

*Henry Dew*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Larry Taylor*

1 Amend H.B. No. 4388 (senate committee printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. (a) The legislature finds that the periodic  
5 examination of distributions made from the permanent school fund to  
6 the available school fund is necessary for the effective management  
7 of permanent school fund investments.

8 (b) The Texas Education Agency, in consultation with the  
9 General Land Office, shall conduct a study regarding distributions  
10 from the permanent school fund to the available school fund. The  
11 study must:

12 (1) examine historical patterns in the real value of  
13 distributions made from all assets and revenues of the permanent  
14 school fund and historical patterns in the real value of permanent  
15 school fund assets relative to the number of students enrolled in  
16 the public education system;

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

20 (3) seek input from state government officials  
21 involved in public education policy or in the appropriation of  
22 state funds to support the public education system;

23 (4) examine current and alternative approaches to  
24 balance the needs and interests of present and future beneficiaries  
25 of the permanent school fund and the available school fund;

26 (5) develop options to maximize available revenue  
27 distributions for the education of students enrolled in the public  
28 education system while preserving the permanent school fund for  
29 future generations; and

1           (6) consider any other subjects relevant to the  
2 purpose of the study.

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

5           (d) Not later than June 1, 2020, the Texas Education Agency  
6 shall prepare and submit a report regarding the results of the study  
7 to the governor, the State Board of Education, the Legislative  
8 Budget Board, the lieutenant governor, the speaker of the house of  
9 representatives, and each legislative standing committee with  
10 primary jurisdiction over public education.

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

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

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

**May 23, 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: HB4388** by Murphy (Relating to the management of the permanent school fund by the School Land Board and the State Board of Education.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4388, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$1,620,406
2023	\$1,620,406
2024	\$5,837,420

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>Permanent School Fund</i> 44	Probable Revenue Gain from <i>Available School Fund</i> 2
2020	\$46,297,322	\$0
2021	\$55,388,914	\$0
2022	\$65,097,185	\$1,620,406
2023	\$75,456,646	\$1,620,406
2024	\$86,503,610	\$5,837,420

## **Fiscal Analysis**

The bill would establish the Permanent School Fund Liquid Account as an account in the Permanent School Fund (PSF). Under the requirements of the bill, the School Land Board (SLB) would be required to meet once each quarter and release funds to the Permanent School Fund Liquid Account from the Real Estate Special Fund, except for funds that are either:

- a) Being used for their designated purpose under existing law; or
- b) Required for anticipated cash management needs within the 90-day period following the meeting.

The State Board of Education (SBOE) would be authorized to invest funds from the PSF Liquid Account. These funds could be invested only in liquid assets, as in the same manner that the PSF is managed by the SBOE. Proceeds from PSF Liquid Account investments would be deposited into the treasury to the credit of the SBOE for investment in the PSF. The bill would authorize SBOE to use funds from the PSF Liquid Account for administrative costs, including costs related to investment management or advisory services.

On January 1 of each even-numbered year, the sum the market value of real estate interests and certain other interests related to land, mineral and royalty interests in the Real Estate Special Fund could not exceed 15 percent of the total market value of the PSF on that date.

## **Quarterly reports**

Each quarter, the SBOE would be required to provide the SLB with a report on the portion of the PSF assets and funds for which the SBOE is responsible. The SLB would be required to provide the SBOE with a similar report at similar intervals.

In each of its quarterly reports, the SLB would be required to provide the SBOE with the SLB's estimated cash needs for the six-month period following the report to allow the SBOE to ensure that the SLB's case needs may be met. In order to ensure those needs are met, SBOE would be required to release funds from the PSF Liquid Account to the SLB to be deposited into the Real Estate Special Fund within five days of a request from the SLB.

The bill would take effect September 1, 2019.

## **Methodology**

Under the assumption that uncommitted SLB cash is sent to the PSF Liquid Account, the Texas Education Agency estimates that \$46.3 million in additional revenue would accrue to the PSF in fiscal year 2020, an amount that would be projected to grow to an additional \$85.5 million by fiscal year 2024.

TEA's estimate is based on an assumption that the PSF Liquid Account would earn a 4.96 percent average annual return, which would be above the 2.55 percent average annual return on assets that would be eligible for transfer to the PSF Liquid Account, an amount that is based on the State of Texas Treasury yield.

Increased contributions from the PSF to the Available School Fund would lag these amounts, due to the SBOE's use of 16 quarter average assets in calculating the distribution. For this reason, increased distributions to the ASF would not be expected until 2022, when distributions would



total an estimated \$1.6 million. This estimate assumes a 3.5 percent distribution rate from the PSF to the ASF.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 305 General Land Office and Veterans' Land Board, 701 Texas Education Agency, 304 Comptroller of Public Accounts

**LBB Staff:** WP, CPa, AM, THo, HL, CMa

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

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

**May 15, 2019**

**TO:** Honorable Larry Taylor, Chair, Senate Committee on Education

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

**IN RE: HB4388** by Murphy (Relating to the management of the permanent school fund by the School Land Board and the State Board of Education.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4388, As Engrossed: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
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2023	\$1,620,406
2024	\$5,837,420

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>Permanent School Fund</i> 44	Probable Revenue Gain from <i>Available School Fund</i> 2
2020	\$46,297,322	\$0
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The bill would establish the Permanent School Fund Liquid Account as an account in the Permanent School Fund (PSF). Under the requirements of the bill, the School Land Board (SLB) would be required to meet once each quarter and release funds to the Permanent School Fund Liquid Account from the Real Estate Special Fund, except for funds that are either:

- a) Being used for their designated purpose under existing law; or
- b) Required for anticipated cash management needs within the 90-day period following the meeting.

The State Board of Education (SBOE) would be authorized to invest funds from the PSF Liquid Account. These funds could be invested only in liquid assets, as in the same manner that the PSF is managed by the SBOE. Proceeds from PSF Liquid Account investments would be deposited into the treasury to the credit of the SBOE for investment in the PSF. The bill would authorize SBOE to use funds from the PSF Liquid Account for administrative costs, including costs related to investment management or advisory services.

On January 1 of each even-numbered year, the sum the market value of real estate interests and certain other interests related to land, mineral and royalty interests in the Real Estate Special Fund could not exceed 15 percent of the total market value of the PSF on that date.

## **Quarterly reports**

Each quarter, the SBOE would be required to provide the SLB with a report on the portion of the PSF assets and funds for which the SBOE is responsible. The SLB would be required to provide the SBOE with a similar report at similar intervals.

In each of its quarterly reports, the SLB would be required to provide the SBOE with the SLB's estimated cash needs for the six-month period following the report to allow the SBOE to ensure that the SLB's case needs may be met. In order to ensure those needs are met, SBOE would be required to release funds from the PSF Liquid Account to the SLB to be deposited into the Real Estate Special Fund within five days of a request from the SLB.

The bill would take effect September 1, 2019.

## **Methodology**

Under the assumption that uncommitted SLB cash is sent to the PSF Liquid Account, the Texas Education Agency estimates that \$46.3 million in additional revenue would accrue to the PSF in fiscal year 2020, an amount that would be projected to grow to an additional \$85.5 million by fiscal year 2024.

TEA's estimate is based on an assumption that the PSF Liquid Account would earn a 4.96 percent average annual return, which would be above the 2.55 percent average annual return on assets that would be eligible for transfer to the PSF Liquid Account, an amount that is based on the State of Texas Treasury yield.

Increased contributions from the PSF to the Available School Fund would lag these amounts, due to the SBOE's use of 16 quarter average assets in calculating the distribution. For this reason, increased distributions to the ASF would not be expected until 2022, when distributions would

total an estimated \$1.6 million. This estimate assumes a 3.5 percent distribution rate from the PSF to the ASF.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 701 Texas Education Agency

**LBB Staff:** WP, HL, THo, CMa, AM

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

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

**April 24, 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:** **HB4388** by Murphy (relating to the management of the permanent school fund by the School Land Board and the State Board of Education.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4388, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$1,620,406
2023	\$1,620,406
2024	\$5,837,420

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>Permanent School Fund</i> 44	Probable Revenue Gain from <i>Available School Fund</i> 2
2020	\$46,297,322	\$0
2021	\$55,388,914	\$0
2022	\$65,097,185	\$1,620,406
2023	\$75,456,646	\$1,620,406
2024	\$86,503,610	\$5,837,420

## **Fiscal Analysis**

The bill would establish the Permanent School Fund Liquid Account as an account in the Permanent School Fund (PSF). Under the requirements of the bill, the School Land Board (SLB) would be required to meet once each quarter and release funds to the Permanent School Fund Liquid Account from the Real Estate Special Fund, except for funds that are either:

- a) Being used for their designated purpose under existing law; or
- b) Required for anticipated cash management needs within the 90-day period following the meeting.

The State Board of Education (SBOE) would be authorized to invest funds from the PSF Liquid Account. These funds could be invested only in liquid assets, as in the same manner that the PSF is managed by the SBOE. Proceeds from PSF Liquid Account investments would be deposited into the treasury to the credit of the SBOE for investment in the PSF. The bill would authorize SBOE to use funds from the PSF Liquid Account for administrative costs, including costs related to investment management or advisory services.

On January 1 of each even-numbered year, the sum the market value of real estate interests and certain other interests related to land, mineral and royalty interests in the Real Estate Special Fund could not exceed 15 percent of the total market value of the PSF on that date.

## **Quarterly reports**

Each quarter, the SBOE would be required to provide the SLB with a report on the portion of the PSF assets and funds for which the SBOE is responsible. The SLB would be required to provide the SBOE with a similar report at similar intervals.

In each of its quarterly reports, the SLB would be required to provide the SBOE with the SLB's estimated cash needs for the six-month period following the report to allow the SBOE to ensure that the SLB's case needs may be met. In order to ensure those needs are met, SBOE would be required to release funds from the PSF Liquid Account to the SLB to be deposited into the Real Estate Special Fund within five days of a request from the SLB.

The bill would take effect September 1, 2019.

## **Methodology**

Under the assumption that uncommitted SLB cash is sent to the PSF Liquid Account, the Texas Education Agency estimates that \$46.3 million in additional revenue would accrue to the PSF in fiscal year 2020, an amount that would be projected to grow to an additional \$85.5 million by fiscal year 2024.

TEA's estimate is based on an assumption that the PSF Liquid Account would earn a 4.96 percent average annual return, which would be above the 2.55 percent average annual return on assets that would be eligible for transfer to the PSF Liquid Account, an amount that is based on the State of Texas Treasury yield.

Increased contributions from the PSF to the Available School Fund would lag these amounts, due to the SBOE's use of 16 quarter average assets in calculating the distribution. For this reason, increased distributions to the ASF would not be expected until 2022, when distributions would

total an estimated \$1.6 million. This estimate assumes a 3.5 percent distribution rate from the PSF to the ASF.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 701 Texas Education Agency

**LBB Staff:** WP, THo, CMa, AM

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

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

**April 17, 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: HB4388** by Murphy (Relating to the management of the permanent school fund by the School Land Board and the State Board of Education.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4388, As Introduced: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$1,620,406
2023	\$1,620,406
2024	\$5,837,420

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>Permanent School Fund</i> 44	Probable Savings/(Cost) from <i>Available School Fund</i> 2	Probable Savings/(Cost) from <i>Real Estate Special Fund</i>
2020	\$46,297,322	\$0	\$0
2021	\$55,388,914	\$0	\$0
2022	\$65,097,185	\$1,620,406	(\$5,219,531)
2023	\$75,456,646	\$1,620,406	(\$5,219,531)
2024	\$86,503,610	\$5,837,420	(\$5,219,531)

**Fiscal Analysis**

The bill would establish the Permanent School Fund Liquid Account as an account in the



Permanent School Fund (PSF). Under the requirements of the bill, the School Land Board (SLB) would be required to meet once each quarter and release funds to the Permanent School Fund Liquid Account from the Real Estate Special Fund, except for funds that are either:

- a) Being used for their designated purpose under existing law; or
- b) Required for cash management needs within the 90-day period following the meeting.

The State Board of Education (SBOE) would be authorized to invest funds from the PSF Liquid Account. These funds could be invested only in liquid assets or markets, as authorized by law for the investment of the PSF. Proceeds from PSF Liquid Account investments would be deposited into the treasury to the credit of the SBOE for investment in the PSF. The bill would authorize appropriations to the SBOE from the PSF Liquid Account for administrative costs, including costs related to investment management or advisory services.

On January 1 of each even-numbered year, the sum of funds in the Real Estate Special Fund not being used for their designated purpose under existing law, holdings in the PSF Liquid Account, and the market value of real estate investments made under the Real Estate Special Fund could not exceed 15 percent of the total market value of the PSF on that date.

### **Quarterly reports**

Each quarter, the SBOE would be required to provide the SLB with a report on the portion of the PSF assets and funds for which the SBOE is responsible. The SLB would be required to provide the SBOE with a similar report at similar intervals.

In each of its quarterly reports, the SLB would be required to provide the SBOE with the SLB's estimated cash needs for the six-month period following the report to allow the SBOE to ensure that the SLB's case needs may be met. In order to ensure those needs are met, SBOE would be required to release funds from the PSF Liquid Account to the SLB to be deposited into the Real Estate Special Fund within ten days of a request from the SLB.

### **Deadline for the transfer of funds**

The bill would establish a deadline for the SLB to make any transfers from the Real Estate Special Fund to the Available School Fund or the SBOE for investment in the PSF that are described in the report that the SLB submits in each even-numbered year. That deadline would be September 1 of the next even-numbered year.

The bill would take effect September 1, 2019.

### **Methodology**

Under the assumption that uncommitted SLB cash is sent to the PSF Liquid Account, the Texas Education Agency estimates that \$46.3 million in additional revenue would accrue to the PSF in fiscal year 2020, an amount that would be projected to grow to an additional \$85.5 million by fiscal year 2024.

TEA's estimate is based on an assumption that the PSF Liquid Account would earn a 4.96 percent average annual return, which would be above the 2.55 percent average annual return on assets that would be eligible for transfer to the PSF Liquid Account, an amount that is based on the State of Texas Treasury yield.

Increased contributions from the PSF to the Available School Fund would lag these amounts, due to the SBOE's use of 16 quarter average assets in calculating the distribution. For this reason, increased distributions to the ASF would not be expected until 2022, when distributions would total an estimated \$1.6 million. This estimate assumes a 3.5 percent distribution rate from the PSF to the ASF.

The General Land Office projects a loss of \$10.4 million from the Real Estate Special Fund in each biennium, beginning in fiscal year 2022. This projected loss is based on the fact that Real Estate Special Fund releases are currently paid in quarterly amounts spread out across the biennium, rather than a full payment on September 1 every other year, resulting in some lost interest income over the biennium. The agency estimated this impact by applying a 2.55 percent interest rate to the share of funds remaining in Real Estate Special Fund if releases are timed on a quarterly basis over a two year period, assuming a release of \$655 million in each biennium (which is the most recently adopted amount). This loss would vary based on changes in the amount of a release or based on changes in interest rates.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 701 Texas Education Agency

**LBB Staff:** WP, CMA, AM, THo