

Amend CSHB 1525 (senate committee printing) as follows:

(1) Designate SECTIONS 1 through 33 of the bill (page 1, line 25, through page 13, line 32) as ARTICLE 3 of the bill and renumber those SECTIONS accordingly.

(2) In SECTION 32 of the bill, adding transition language (page 13, lines 24 and 25), strike "the effective date of this Act" and substitute "September 1, 2021".

(3) In SECTION 32 of the bill, adding transition language (page 13, lines 25 and 26), strike "the effective date of this Act" and substitute "September 1, 2021,".

(4) Strike SECTION 34 of the bill, adding an effective date (page 13, line 33).

(5) Add the following ARTICLES to the bill:

ARTICLE 1. STATE BOARD OF EDUCATION'S MANAGEMENT OF PERMANENT
SCHOOL FUND

SECTION 1.01. Sections 43.001, 43.002, 43.003, 43.0031, 43.0032, 43.0033, 43.0034, 43.004, 43.005, 43.0051, 43.006, 43.007, 43.009, 43.010, 43.011, 43.012, 43.013, 43.014, 43.015, 43.016, 43.017, 43.018, 43.019, and 43.020, Education Code, are redesignated as Subchapter A, Chapter 43, Education Code, and a heading for Subchapter A is added to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 1.02. Section 43.001(a), Education Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:

(1) all land appropriated for the public schools by the constitution and laws of this state;

(2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as described [~~defined~~] by Section 88.111 and property described by Section 12.128;

(3) all proceeds from the authorized sale of permanent school fund land;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments authorized by Section 43.003 of assets [~~properties~~] belonging to the permanent school fund; and

(6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.

SECTION 1.03. Section 43.003, Education Code, is amended to read as follows:

Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. The [~~In compliance with this section, the~~] State Board of Education may invest the permanent school fund as authorized by Section 5(f), Article VII, Texas Constitution [~~in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:~~

~~[(1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies and in bonds issued by this state,~~

~~[(2) obligations and pledges of The University of Texas,~~

~~[(3) corporate bonds, debentures, or obligations of United States corporations of at least "A" rating,~~

~~[(4) obligations of United States corporations that mature in less than one year and are of the highest rating available at the time of investment,~~

~~[(5) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation,~~

~~[(6) bonds of counties, school districts, municipalities, road precincts, drainage, irrigation, navigation, and levee districts in this state, subject to the following requirements:~~

~~[(A) the securities, before purchase, must have been diligently investigated by the attorney general both as to form and as to legal compliance with applicable laws,~~

~~[(B) the attorney general's certificate of~~

~~validity procured by the party offering the bonds, obligations, or pledges must accompany the securities when they are submitted for registration to the comptroller, who must preserve the certificates;~~

~~[(C) the public securities, if purchased, and when certified and registered as specified under Paragraph (B), are incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general are prima facie evidence of the validity of the bonds and bond coupons; and~~

~~[(D) after the issuing political subdivision has received the proceeds from the sales of the securities, the issuing agency is estopped to deny their validity, and the securities are valid and binding obligations;~~

~~[(7) preferred stocks and common stocks that the State Board of Education considers proper investments for the permanent school fund, subject to the following requirements:~~

~~[(A) in making all of those investments, the State Board of Education shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital;~~

~~[(B) the company issuing the stock must be incorporated in the United States, and the stocks must have paid dividends for five consecutive years or longer immediately before the date of purchase and the stocks, except for bank stocks and insurance stocks, must be listed on an exchange registered with the Securities and Exchange Commission or its successors; and~~

~~[(C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation and not more than five percent of the voting stock of any one corporation will be owned; and~~

~~[(8) notwithstanding any other law or provision of this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act~~

~~of the United States, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States].~~

SECTION 1.04. Section 43.0033, Education Code, is amended to read as follows:

Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant, advisor, broker, or other person providing services to the State Board of Education relating to the management and investment of the permanent school fund shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of:

- (1) a member of the board;
- (2) the commissioner; or
- (3) an employee of the agency [~~or of a nonprofit corporation created under Section 43.006~~].

SECTION 1.05. Section 43.006(a), Education Code, is amended to read as follows:

(a) The State Board of Education may delegate investment authority for the investment of the permanent school fund to the Texas Permanent School Fund Corporation as provided by Subchapter B [~~same extent as an institution with respect to an institutional fund under Chapter 163, Property Code~~].

SECTION 1.06. Chapter 43, Education Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. TEXAS PERMANENT SCHOOL FUND CORPORATION

Sec. 43.051. DEFINITIONS. In this subchapter:

(1) "Board of directors" means the board of directors of the corporation.

(2) "Chief executive officer" means the chief executive officer of the corporation employed under Section 43.054.

(3) "Corporation" means the Texas Permanent School Fund Corporation.

Sec. 43.052. CREATION OF CORPORATION. (a) The State Board of Education may incorporate the Texas Permanent School Fund Corporation and delegate to the corporation the board's authority to manage and invest:

- (1) the permanent school fund under Section 43.003;

and

(2) the charter district bond guarantee reserve fund under Section 45.0571.

(b) The State Board of Education shall adopt the initial articles of incorporation for the corporation.

(c) The corporation is a special-purpose governmental corporation and instrumentality of the state with necessary and implied powers to accomplish its purpose. The corporation is subject to regulation and limitation only as provided by this subchapter.

Sec. 43.053. BOARD OF DIRECTORS; MEETINGS. (a) The board of directors is composed of the following nine members:

(1) five members of the State Board of Education, appointed by the board in accordance with board policy;

(2) the commissioner of the General Land Office;

(3) one member appointed by the commissioner of the General Land Office who has substantial background and expertise in investments and asset management; and

(4) two members appointed by the governor, with the advice and consent of the senate, from a list of the following six nominees, each of whom must have substantial background and expertise in investments and asset management and may not be members of the State Board of Education or the School Land Board:

(A) three individuals nominated by the State Board of Education; and

(B) three individuals nominated by the School Land Board.

(b) The State Board of Education by rule shall establish the terms of members of the board of directors appointed under Subsection (a)(1).

(c) Members of the board of directors appointed under Subsections (a)(3) and (4) serve staggered six-year terms, with the term of one member expiring on January 1 of each odd-numbered year.

(d) The initial members described by Subsection (c) shall determine by lot which one of the initial members will serve a term expiring January 1 of the first odd-numbered year following the establishment of the corporation, which one of the initial members

will serve a term expiring January 1 of the second odd-numbered year following the establishment of the corporation, and which one of the initial members will serve a term expiring January 1 of the third odd-numbered year following the establishment of the corporation.

(e) Appointments to the board of directors must be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) The board of directors shall elect officers of the board in accordance with the corporation's bylaws.

(g) The board of directors shall meet at least three times per year.

Sec. 43.054. CHIEF EXECUTIVE OFFICER. (a) The corporation shall employ a chief executive officer to manage and carry out the policies of the corporation. The board of directors shall determine the process for hiring the chief executive officer.

(b) The chief executive officer serves at the will of the board of directors.

Sec. 43.055. EMPLOYEES. (a) The chief executive officer is responsible for hiring all employees of the corporation.

(b) Employees of the corporation serve at the will of the chief executive officer.

(c) The chief executive officer or the chief executive officer's designee shall develop a system of compensation for employees of the corporation as necessary to retain qualified staff.

(d) The chief executive officer or the chief executive officer's designee shall develop a system of annual performance evaluations. Merit pay for corporation employees must be based on the system established under this subsection.

(e) The chief executive officer or the chief executive officer's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(f) The chief executive officer may appoint an internal

auditor for the corporation, who may be an employee of the corporation. The appointment of the internal auditor must be approved by the board of directors. The board of directors may require the internal auditor to submit specified reports directly to the board of directors.

(g) Except as otherwise provided by this subchapter, employees of the corporation are state employees for all purposes, including:

(1) accrual of leave time, insurance benefits, and retirement benefits;

(2) Chapter 104, Civil Practice and Remedies Code; and

(3) Chapter 501, Labor Code.

Sec. 43.056. SOVEREIGN IMMUNITY. (a) The corporation, the board of directors, and the officers and employees of the corporation are entitled to sovereign immunity to the same extent as any other state agency or officer or employee of a state agency.

(b) No action taken by the corporation, including the acceptance of benefits under a contract, may be construed to waive the corporation's sovereign immunity, including immunity from suit or from liability.

(c) Subchapter C, Chapter 2260, Government Code, does not apply to the corporation.

Sec. 43.057. LIABILITY INSURANCE FOR BOARD MEMBERS AND EMPLOYEES. (a) The corporation may purchase or otherwise acquire insurance to protect members of the board of directors and employees of the corporation, subject to Subsection (c).

(b) Insurance purchased or acquired by the corporation under this section may:

(1) protect against any type of liability to third persons that might be incurred while conducting corporation business; and

(2) provide for all costs of defending a cause of action for such liability, including court costs and attorney's fees.

(c) This section does not authorize the purchase or acquisition of insurance to protect against liability not described in Subsection (b).

Sec. 43.058. ETHICS POLICY; CONFLICTS OF INTEREST.

(a) The board of directors shall adopt an ethics policy that provides standards of conduct relating to the management and investment of the permanent school fund in accordance with Section 43.0031(a). The ethics policy must include provisions applicable to:

(1) members of the board of directors;
(2) employees of the corporation; and
(3) any person who provides services to the corporation relating to the management or investment of the permanent school fund.

(b) A member of the board of directors, an employee of the corporation, and a person who provides services to the corporation relating to the management or investment of the permanent school fund shall disclose in writing to the corporation any business, commercial, or other relationship that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the permanent school fund.

(c) The board of directors shall define in the ethics policy adopted under Subsection (a) the types of relationships that may create a possible conflict of interest.

(d) A person who makes a written disclosure under Subsection (b) stating a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the board of directors expressly waives this prohibition. The board of directors may delegate the authority to waive the prohibition established by this subsection.

Sec. 43.059. APPLICABILITY OF CERTAIN LAWS. (a) Except as otherwise provided by and to the extent consistent with this subchapter, Title 1, Business Organizations Code, and Chapter 22, Business Organizations Code, apply to the corporation.

(b) Subject to Section 43.060, the corporation is a governmental body for purposes of Chapter 551, Government Code.

(c) The corporation is exempt from:

(1) Chapters 654 and 660, Government Code, and Subchapter K, Chapter 659, Government Code, to the extent the board

of directors determines that an exemption from those provisions is necessary for the corporation to perform the board's fiduciary duties under this subchapter;

(2) all state laws regulating or limiting purchasing by state agencies, including Subtitle D, Title 10, Government Code, and Chapters 2254, 2261, and 2262, Government Code;

(3) the franchise tax under Chapter 171, Tax Code; and

(4) any filing costs or other fees imposed by the state on a corporation.

Sec. 43.060. EXCEPTION TO OPEN MEETING REQUIREMENTS FOR CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) In this section, "private investment fund," "reinvestment," and "restricted securities" have the meanings assigned by Section 552.143, Government Code.

(b) The board of directors may conduct a closed meeting in accordance with Subchapter E, Chapter 551, Government Code, to deliberate or confer with one or more employees, consultants, or legal counsel of the corporation or with a third party if the only purpose of the meeting is to receive information from or question the employees, consultants, or legal counsel or third party relating to:

(1) investment transactions or potential investment transactions if, before conducting the closed meeting, a majority of the board of directors in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on the corporation's position in negotiations with third parties or put the corporation at a competitive disadvantage in the market;

(2) the purchase, holding, or disposal of restricted securities or a private investment fund's investment in restricted securities if, under Section 552.143, Government Code, the information discussed would be confidential and excepted from the requirements of Section 552.021, Government Code, if the information were included in the records of a governmental body; or

(3) a procurement proposed to be awarded by the board of directors if, before conducting the closed meeting, a majority of the board of directors in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on

the corporation's position in negotiations with third parties.

(c) Any vote or final action taken on a procurement described by Subsection (b)(3) must be conducted in an open meeting.

Sec. 43.061. RECORD RETENTION. (a) Subchapter L, Chapter 441, Government Code, does not apply to the corporation.

(b) The corporation may establish record retention policies for the corporation. In establishing the policies under this section, the corporation may consider relevant rules and guidelines adopted by the Texas State Library and Archives Commission.

Sec. 43.062. INFORMATION TECHNOLOGY AND ASSOCIATED RESOURCES. (a) Chapters 2054 and 2055, Government Code, do not apply to the corporation or to any state agency with respect to a contract entered into between the agency and the corporation for information technology or associated resources.

(b) The corporation shall control all aspects of, and may contract with third parties for, the corporation's information technology and associated resources, including:

(1) computer, data management, and telecommunications operations;

(2) procurement of hardware, software, and middleware and telecommunications equipment and systems;

(3) location, operation, and replacement of computers, computer systems, software provided as a service, and telecommunications systems;

(4) data processing;

(5) security;

(6) disaster recovery; and

(7) storage.

(c) The Department of Information Resources shall assist the corporation at the request of the corporation, and the corporation may use any service that is available through that department.

Sec. 43.063. GENERAL POWERS AND DUTIES OF CORPORATION. (a) The corporation may amend the articles of incorporation adopted by the State Board of Education when the corporation was established, subject to board approval.

(b) The corporation may adopt and amend:

(1) subject to State Board of Education approval, bylaws for the corporation;

(2) resolutions and policies of the corporation; and

(3) any other document necessary to carry out the corporation's purpose.

(c) The corporation may engage in any activity necessary to manage the investments of the permanent school fund, including entering into any contract in connection with the investment of the permanent school fund, to the extent the activity complies with applicable fiduciary duties.

(d) The corporation shall make all purchases of goods and services in accordance with applicable fiduciary duties and may use purchasing methods that ensure the best value to the corporation. In determining best value, the corporation may consider the best value standards applicable to state agencies under Section 2155.074, Government Code.

(e) The corporation may:

(1) delegate investment authority for the investment of the permanent school fund to one or more private professional investment managers; or

(2) contract with one or more private professional investment managers to assist the corporation in making investments of the permanent school fund.

(f) The corporation may receive, transfer, and disburse money and securities of the fund as provided by statute or the Texas Constitution, except that the corporation may not distribute money from the permanent school fund to the available school fund except as authorized under Section 43.066.

(g) The corporation may enter into a contract with a state agency, a governmental body, or another entity to manage or invest funds on behalf of the agency, body, or entity.

Sec. 43.064. CONTRACTING FOR FACILITIES AND NECESSARY SUPPORT. The corporation may contract with a state agency or another entity to provide operational support, facilities, information and data technology, staff, or other support for the corporation. The corporation may but is not required to request

allocation of space to the corporation under Subchapter C, Chapter 2165, Government Code.

Sec. 43.065. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE EVALUATION. In accordance with Section 43.004, the board of directors shall:

(1) develop written investment objectives concerning the investment of the permanent school fund; and

(2) employ a well-recognized performance measurement service to evaluate and analyze the investment results of the permanent school fund.

Sec. 43.066. DISTRIBUTIONS BY CORPORATION FROM PERMANENT SCHOOL FUND TO AVAILABLE SCHOOL FUND. (a) The corporation may distribute from the permanent school fund to the available school fund under Section 5(g), Article VII, Texas Constitution, an amount not to exceed the limitation under that section that is determined in accordance with rules established by the corporation.

(b) In developing the rules for distributions under Subsection (a), the corporation shall develop and establish an annual minimum distribution rate that the corporation will use in making a distribution from the permanent school fund to the available school fund each state fiscal year. In developing the annual minimum distribution rate under this subsection, the corporation may consider:

(1) transfers made from the permanent school fund to the available school fund under Section 43.002 in accordance with Section 5(a), Article VII, Texas Constitution;

(2) factors that relate to the current and future public school students in the state; and

(3) any other factors the corporation determines relevant.

Sec. 43.067. BOND GUARANTEE PROGRAM. The corporation, the State Board of Education, and the agency shall coordinate to determine the corporation's role in the operation and management of the permanent school fund in connection with the bond guarantee program under Subchapter C, Chapter 45, to ensure the proper and efficient operation of the program, including the handling of any associated reimbursements, transfers, and disbursements.

Sec. 43.068. ANNUAL AUDIT. (a) Not less than once each year, the board of directors shall submit to the Legislative Budget Board an audit report regarding the operations of the corporation.

(b) The corporation may contract with a certified public accountant or the state auditor to conduct an independent audit of the operations of the corporation.

(c) This section does not affect the state auditor's authority to conduct an audit of the corporation in accordance with Chapter 321, Government Code.

Sec. 43.069. ANNUAL INVESTMENT REPORT. The corporation shall annually submit to the State Board of Education and the General Land Office a report on the allocation of assets and investment performance of the portion of the permanent school fund for which the corporation is responsible.

Sec. 43.070. REPORT ON ANTICIPATED TRANSFER TO AVAILABLE SCHOOL FUND. Not later than November 1 of each even-numbered year, the corporation shall submit to the legislature, comptroller, State Board of Education, and Legislative Budget Board a report that in detail specifically states the date a transfer will be made and the amount the corporation will transfer during the subsequent state fiscal biennium from the permanent school fund to the available school fund under Section 43.066.

Sec. 43.071. GIFTS, GRANTS, AND DONATIONS. The corporation may accept, and establish a nonprofit corporation or other entity for the purpose of accepting, a gift, grant, donation, or bequest of money, securities, property, or any other assets from any public or private source for the permanent school fund.

SECTION 1.07. Sections 43.006(b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), Education Code, are repealed.

ARTICLE 2. SCHOOL LAND BOARD'S MANAGEMENT OF PERMANENT SCHOOL FUND

SECTION 2.01. Section 51.001, Natural Resources Code, is amended by adding Subdivisions (13) and (14) to read as follows:

(13) "Real property holding" means any direct or indirect interest in real property located in the state or any interest in a joint venture whose primary purpose is the acquisition, development, holding, and disposing of real property located in the state. The term does not include an interest in an

investment vehicle.

(14) "Investment vehicle" means:

(A) a multi-investment separately managed account or similar investment fund;

(B) a multi-asset closed-end or open-end investment fund sponsored and managed by a third party;

(C) a real estate investment trust;

(D) an investment managed by a third party alongside a multi-asset closed-end or open-end investment fund that is also managed by the third party or by any of the third party's related persons or affiliates; or

(E) a corporation, partnership, limited liability company, or other entity whose primary purpose is to:

(i) sponsor and manage investments on behalf of third parties, including institutional investors; or

(ii) operate assets or provide brokerage or other services to third parties under circumstances in which the entity does not directly or indirectly own the underlying assets.

SECTION 2.02. Section 51.011, Natural Resources Code, is amended by amending Subsections (a) and (a-1) and adding Subsection (a-3) to read as follows:

(a) Any land, mineral or royalty interest, or real property holding, and ~~[estate investment, or other interest, including]~~ revenue received from any land or real property holding ~~[these sources]~~, that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, shall be subject to the sole and exclusive management and control of the School Land Board ~~[school land board]~~ and the commissioner under the provisions of this chapter and other applicable law.

(a-1) The board may acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, or real property holdings, and ~~[estate investments, or other interests, including]~~ revenue received from land or real property holdings ~~[these sources]~~, that are set apart to the permanent school fund in any manner, at such

prices, and under such terms and conditions as the board finds to be in the best interest of the fund.

(a-3) All revenue received from mineral or royalty interests described by Subsection (a), including bonus payments, mineral lease rental revenues, royalties, and any other type of revenue received from those interests, less any amount specified by appropriation to be retained by the board under this subsection, shall be transferred each month to the Texas Permanent School Fund Corporation for investment in the permanent school fund.

SECTION 2.03. Section 51.017, Natural Resources Code, is amended to read as follows:

Sec. 51.017. FURNISHING DATA TO TEXAS PERMANENT SCHOOL FUND CORPORATION [~~BOARD OF EDUCATION~~]. On request, the commissioner shall furnish to the Texas Permanent School Fund Corporation [~~State Board of Education~~] all available data.

SECTION 2.04. Section 51.401(a), Natural Resources Code, is amended to read as follows:

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

SECTION 2.05. Section 51.402(a), Natural Resources Code, is amended to read as follows:

(a) The [~~Except as provided by Subsection (c), the~~] board may use funds designated under Section 51.401 for any of the following purposes:

- (1) to add to a tract of public school land to form a tract of sufficient size to be manageable;
- (2) to add contiguous land to public school land;
- (3) to acquire, as public school land, interests in real property for biological, residential, commercial, geological,

cultural, or recreational purposes;

(4) to acquire mineral and royalty interests for the use and benefit of the permanent school fund;

(5) to protect, maintain, or enhance the value of public school land and mineral or royalty interests on that land;

(6) to acquire real property holdings [~~interests in real estate~~];

(7) to pay reasonable fees for professional services related to a permanent school fund investment; or

(8) to acquire, sell, lease, trade, improve, maintain, protect, or use land, mineral and royalty interests, or real property holdings [~~estate investments, an investment or interest in public infrastructure, or other interests~~], at such prices and under such terms and conditions the board determines to be in the best interest of the permanent school fund.

SECTION 2.06. Section 51.4021, Natural Resources Code, is amended to read as follows:

Sec. 51.4021. APPOINTMENT OF [~~SPECIAL FUND MANAGERS,~~] INVESTMENT CONSULTANTS[~~7~~] OR ADVISORS. (a) The board may appoint investment [~~managers,~~] consultants[~~7~~] or advisors to [~~invest or~~] assist the board in using [~~investing~~] funds designated under Section 51.401 in a manner authorized under Section 51.402 by contracting for professional [~~investment management or~~] investment advisory services with one or more organizations that are in the business of [~~managing or~~] advising on the management of real estate investments.

(b) To be eligible for appointment under this section, an investment [~~manager,~~] consultant[~~7~~] or advisor shall agree to abide by the policies, requirements, or restrictions, including ethical standards and disclosure policies and criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for real estate investments of the permanent school fund. Funds designated under Section 51.401 may not be invested in a real estate investment trust, as defined by Section 200.001, Business Organizations Code.

(c) Compensation paid to an investment [~~manager,~~] consultant[~~7~~] or advisor by the board must be consistent with the

compensation standards of the investment industry and compensation paid by similarly situated institutional investors.

(d) Chapter 2263, Government Code, applies to investment [~~managers,~~] consultants and [~~or~~] advisors appointed under this section. The board by rule shall adopt standards of conduct for investment [~~managers,~~] consultants and [~~or~~] advisors appointed under this section as required by Section 2263.004, Government Code, and shall implement the disclosure requirements of Section 2263.005 of that code.

SECTION 2.07. The heading to Section 51.412, Natural Resources Code, is amended to read as follows:

Sec. 51.412. REPORT ON USE OF CERTAIN MONEY [~~REPORTS TO LEGISLATURE~~].

SECTION 2.08. Sections 51.412(a) and (c), Natural Resources Code, are amended to read as follows:

(a) Not later than September 1 of each even-numbered year, the board shall submit to the legislature, the Texas Permanent School Fund Corporation, and the Legislative Budget Board a report that, specifically and in detail, assesses the direct and indirect economic impact, as anticipated by the board, of the use [~~investment~~] of funds:

(1) retained by the board as provided by Section 51.011(a-3); or

(2) designated under Section 51.401 for deposit in the real estate special fund account of the permanent school fund.

(c) The report must include the following information:

(1) the total amount of the funds designated by Section 51.401 for deposit in the real estate special fund account of the permanent school fund that the board intends to use in a manner authorized under Section 51.402 [~~invest~~];

(2) the amount of funds retained by [~~rate of return~~] the board as provided by Section 51.011(a-3) and the purposes for which the board intends to use those funds [~~expects to attain on the investment~~];

(3) the amount of the funds the board expects to distribute to the available school fund or the Texas Permanent School Fund Corporation [~~State Board of Education~~] for investment

in the permanent school fund under Section 51.413 [~~after making the investments~~];

(4) [~~the distribution of the board's investments by county,~~

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

~~(6)]~~ the amounts of all fees or other compensation paid by the board to investment [~~managers,~~] consultants and [~~or~~] advisors appointed or organizations contracted with under Section 51.4021; and

(5) [~~(7)]~~ any other information the board considers necessary to include in the report.

SECTION 2.09. Section 51.413, Natural Resources Code, is amended to read as follows:

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

(a) The board may, by a resolution adopted at a regular meeting, release from the real estate special fund account funds previously designated under Section 51.401 or managed, used, or encumbered under Section 51.402 or Section 51.4021 to be deposited in the State Treasury to the credit of:

(1) the available school fund; or

(2) the Texas Permanent School Fund Corporation [~~State Board of Education~~] for investment in the permanent school fund.

(b) The board shall adopt rules to establish the procedure that will be used by the board to determine the date a transfer will be made and the amount of the funds that will be transferred to the available school fund or to the Texas Permanent School Fund Corporation [~~State Board of Education~~] for investment in the permanent school fund from the real estate special fund account as provided by Subsection (a).

SECTION 2.10. The following provisions are repealed:

(1) Section 43.0052, Education Code;

(2) Sections 32.0161 and 32.068, Natural Resources Code;

(3) Section 51.402(c), Natural Resources Code, as

amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the 86th Legislature, Regular Session, 2019; and

(4) Sections 51.4131 and 51.414, Natural Resources Code.

SECTION 2.11. (a) Subject to Subsection (b) of this section, as soon as practicable after the effective date of this article and on the date agreed to by the State Board of Education, the Texas Education Agency, the School Land Board, and the Texas Permanent School Fund Corporation, as applicable:

(1) all powers, duties, functions, programs, and activities of the State Board of Education and the Texas Education Agency relating to the management and investment of the permanent school fund transfer to the Texas Permanent School Fund Corporation by operation of law; and

(2) all powers, duties, functions, programs, and activities of the School Land Board relating to assets or investments of the permanent school fund described by Section 2.15(a)(1) of this article transfer to the Texas Permanent School Fund Corporation by operation of law.

(b) The Texas Permanent School Fund Corporation may delay the transfer of any power, duty, function, program, or activity under Subsection (a) of this section if the corporation determines that the transfer would have an adverse impact on or is not in the best interest of the permanent school fund.

(c) All rules, policies, and procedures relating to the management and investment of the permanent school fund adopted by the State Board of Education or the School Land Board before the transfer under this section remain in effect until the Texas Permanent School Fund Corporation adopts substitute rules, policies, or procedures. In the event of a conflict between rules, policies, or procedures adopted by the State Board of Education and rules, policies, or procedures adopted by the School Land Board, the corporation shall determine which rules, policies, or procedures control.

SECTION 2.12. On the date the transfers under Section 2.11(a) of this article occur:

(1) an employee of the permanent school fund division

of the Texas Education Agency or the investment management division of the General Land Office becomes an employee of the Texas Permanent School Fund Corporation; and

(2) any employee compensation plan, program, agreement, or arrangement, including any incentive compensation plan and outstanding balance or award, relating to each employee described by Subdivision (1) of this section transfers from the Texas Education Agency or the General Land Office, as applicable, to the Texas Permanent School Fund Corporation.

SECTION 2.13. (a) As soon as practicable after the effective date of this article but not later than the date the transfers under Section 2.11(a) of this article occur, the State Board of Education shall enter into a memorandum of understanding with any state agency the board determines necessary to provide for the transfer to or continued use by the Texas Permanent School Fund Corporation for a period determined by the board of any property, facilities, information and data technology, services, and support staff of the state agency used in connection with operations relating to the management or investment of the permanent school fund.

(b) On the date the transfers under Section 2.11(a) of this article occur, the unexpended and unobligated balance of any money appropriated to a state agency relating to the powers, duties, programs, functions, and activities that are transferred to the Texas Permanent School Fund Corporation is transferred to that corporation.

SECTION 2.14. (a) Not later than March 30, 2023, the State Board of Education and the Texas Education Agency shall provide to the Texas Permanent School Fund Corporation all financial, contract, and investment records and documents maintained by the board, the agency, or a service provider of the board or agency relating to the management or investment of the permanent school fund.

(b) Except as provided by Subsection (c) or (d) of this section, as soon as practicable after the effective date of this article and not later than the date the transfers under Section 2.11(a) of this article occur, all assets and investments of the

permanent school fund held by the State Board of Education or the Texas Education Agency and any related contracts are transferred to the Texas Permanent School Fund Corporation by operation of law in accordance with applicable law and any governing documentation applicable to those assets, investments, or contracts, including any applicable limited partnership agreement, limited liability company agreement, subscription agreement, letter agreement, or side letter.

(c) The State Board of Education and the Texas Education Agency shall retain any assets or investments that would otherwise be transferred to the Texas Permanent School Fund Corporation under Subsection (b) of this section if the corporation determines that:

(1) the asset or investment cannot be transferred to the corporation, either because the corporation cannot properly hold custody of the asset or investment or for some other reason; or

(2) the transfer of the asset or investment:

(A) would have an adverse effect on the permanent school fund or on any asset or investment set apart to the permanent school fund; or

(B) is not in the best interest of the permanent school fund.

(d) If an asset or investment required to be transferred to the Texas Permanent School Fund Corporation under Subsection (b) of this section cannot be transferred to the corporation in a timely manner, the State Board of Education, the Texas Education Agency, and the corporation shall coordinate concerning the appropriate timing of the transfer or other disposition of the asset or investment.

(e) The State Board of Education and the Texas Permanent School Fund Corporation shall coordinate the ongoing management or other disposition of any assets or investments retained by the board or the Texas Education Agency under Subsection (c) or (d) of this section, including:

(1) providing direction to the Texas Education Agency regarding the asset or investment;

(2) the funding of any outstanding commitments related to the asset or investment;

(3) the handling of any distributions, income, or revenues from the asset or investment; and

(4) the making of any decisions required with respect to the asset or investment.

SECTION 2.15. (a) Not later than January 31, 2023, the School Land Board shall provide to:

(1) the Texas Permanent School Fund Corporation a list of each asset and investment acquired on or after September 1, 2001, and held by the board on January 31, 2023, other than sovereign or other state lands, mineral or royalty interests, or real property holdings, as that term is defined by Section 51.001, Natural Resources Code, as amended by this article, and information on unfunded commitments and funding obligations related to the asset or investment; and

(2) the general partner or other managing entity of each asset or investment identified under Subdivision (1) of this subsection notice of the transfer of the asset or investment to the Texas Permanent School Fund Corporation under this section.

(b) Not later than March 30, 2023, the School Land Board shall provide to the Texas Permanent School Fund Corporation all financial, contract, and investment records and documents maintained by the board, the General Land Office, or a service provider of the board or office relating to the operations associated with or the management of an asset or investment identified under Subsection (a)(1) of this section.

(c) Except as provided by Subsection (d) or (e) of this section, not later than December 31, 2023, all assets and investments identified under Subsection (a)(1) of this section and any related contracts are transferred from the School Land Board to the Texas Permanent School Fund Corporation by operation of law in accordance with applicable law and any governing documentation applicable to those assets, investments, or contracts, such as any applicable limited partnership agreement, limited liability company agreement, subscription agreement, letter agreement, or side letter.

(d) The School Land Board shall retain any assets or investments that would otherwise be transferred to the Texas

Permanent School Fund Corporation under Subsection (c) of this section if the corporation determines that:

(1) the asset or investment cannot be transferred to the corporation, either because the corporation cannot properly hold custody of the asset or investment or for some other reason; or

(2) the transfer of the asset or investment:

(A) would have an adverse effect on the permanent school fund or on any asset or investment set apart to the permanent school fund; or

(B) is not in the best interest of the permanent school fund.

(e) If an asset or investment required to be transferred to the Texas Permanent School Fund Corporation under Subsection (c) of this section cannot be transferred to the corporation by December 31, 2023, the School Land Board and the corporation shall coordinate concerning the appropriate timing of the transfer or other disposition of the asset or investment.

(f) The School Land Board and the Texas Permanent School Fund Corporation shall coordinate the ongoing management or other disposition of any assets or investments retained by the board under Subsection (d) or (e) of this section, including:

(1) the funding of any outstanding commitments related to the asset or investment;

(2) the handling of any distributions, income, or revenues from the asset or investment; and

(3) the making of any decisions required with respect to the asset or investment.

(g) Not later than December 31, 2023, all cash holdings related to or derived from permanent school fund assets held by the School Land Board shall be transferred to the Texas Permanent School Fund Corporation for deposit to the credit of the permanent school fund.

(h) On the date on which the Texas Permanent School Fund Corporation determines that all outstanding commitments required to be paid from the permanent school fund liquid account have been fully resolved, the account is abolished and the balance of that account is transferred to the permanent school fund.

SECTION 2.16. This article takes effect December 31, 2022, but only if the State Board of Education incorporates the Texas Permanent School Fund Corporation under Subchapter B, Chapter 43, Education Code, as added by this Act, on or before that date. If the State Board of Education does not incorporate the Texas Permanent School Fund Corporation on or before December 31, 2022, this article has no effect.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2021.