

BILL ANALYSIS

Senate Research Center

S.B. 1232
By: Taylor
Education
6/7/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1232 would combine the permanent school fund (PSF) into one single fund run by a new special-purpose government corporation called the Texas Permanent School Fund Corporation (TPSFCO). This idea was based off of how the University of Texas/Texas A&M Investment Management Company (UTIMCO) started managing the permanent university fund in 1996.

TPSFCO will be housed under the State Board of Education (SBOE) but will be its own entity with its board made up of the General Land Office (GLO) commissioner and one member of the commissioner's choosing with investment expertise, five SBOE members, and two governor appointees with asset management experience. This structure was designed to maintain the constitutional requirements of both SBOE and GLO.

With the PSF being unified under TPSFCO, we expect to see over \$100 million each year being added to the PSF due to the diversified portfolio. With maximized investment returns and reduced investment risks under a full merger, TPSFCO will be set up to be successful for generations of schoolchildren to come.

(Original Author's / Sponsor's Statement of Intent)

S.B. 1232 amends current law relating to the management and investment of the permanent school fund, including authorizing the creation of the Texas Permanent School Fund Corporation to manage and invest the fund and limiting the authority of the School Land Board to manage and invest the fund if the corporation is created.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Education SECTION 1.06 (Section 43.053, Education Code) of this bill.

Rulemaking authority previously granted to the School Land Board is modified in SECTION 2.06 (Section 51.4021, Natural Resources Code) and SECTION 2.09 (Section 51.413, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

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

SECTION 1.01. Redesignates 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, as Subchapter A, Chapter 43, Education Code, and adds a heading for Subchapter A, to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 1.02. Amends Section 43.001(a), Education Code, as follows:

(a) Provides that, except as provided by Subsection (b) (relating to providing that the available school fund (ASF), which is required to be apportioned annually to each county according to its scholastic population, consists of certain monetary funds), the permanent school fund (PSF), which is a perpetual endowment for the public schools of this state, consists of, among other assets, all investments authorized by Section 43.003 of assets belonging to the PSF, rather than of properties belonging to the PSF. Makes a nonsubstantive change.

SECTION 1.03. Amends Section 43.003, Education Code, as follows:

Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. Authorizes the State Board of Education (SBOE) to invest the PSF as authorized by Section 5(f) (relating to authorizing SBOE to make certain investments for purposes of managing assets of the PSF), Article VII, Texas Constitution. Deletes existing text authorizing SBOE, in compliance with this section, to invest the PSF in certain types of securities, which are required to be carefully examined by SBOE and be found to be safe and proper investments for the PSF. Makes a nonsubstantive change.

SECTION 1.04. Amends Section 43.0033, Education Code, as follows:

Sec. 43.0033. REPORTS OF EXPENDITURES. Deletes existing text requiring a consultant, advisor, broker, or other person providing services to SBOE relating to the management and investment of the PSF to file with SBOE regularly, as determined by SBOE, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of a nonprofit corporation created under Section 43.006 (Investment Management).

SECTION 1.05. Amends Section 43.006(a), Education Code, as follows:

(a) Authorizes SBOE to delegate investment authority for the investment of PSF to the Texas Permanent School Fund Corporation (corporation) as provided by Subchapter B, rather than to delegate investment authority for the investment of PSF to the same extent as an institution with respect to an institutional fund under Chapter 163 (Management, Investment, and Expenditure of Institutional Funds), Property Code.

SECTION 1.06. Amends Chapter 43, Education Code, by adding Subchapter B, as follows:

SUBCHAPTER B. TEXAS PERMANENT SCHOOL FUND CORPORATION

Sec. 43.051. DEFINITIONS. Defines "board of directors," "chief executive officer," and "corporation."

Sec. 43.052. CREATION OF CORPORATION. (a) Authorizes SBOE to incorporate the corporation and delegate to the corporation SBOE's authority to manage and invest the PSF under Section 43.003 and the charter district bond guarantee reserve fund under Section 45.0571 (Charter District Bond Guarantee Reserve Fund).

(b) Requires SBOE to adopt the initial articles of incorporation for the corporation.

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

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

(1) five members of SBOE, appointed by SBOE in accordance with SBOE policy;

(2) the commissioner of the General Land Office (commissioner; GLO);

(3) one member appointed by the commissioner of GLO 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 Texas Senate, each of whom is required to have substantial background and expertise in investments and asset management and is prohibited from being members of SBOE or the School Land Board (SLB).

(b) Requires SBOE by rule to establish the terms of members of the board of directors appointed under Subsection (a)(1).

(c) Provides that 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) Requires the initial members described by Subsection (c) to 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) Requires that appointments to the board of directors be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

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

(g) Requires the board of directors to meet at least three times per year.

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

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

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

(b) Provides that employees of the corporation serve at the will of the chief executive officer.

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

(d) Requires the chief executive officer or the chief executive officer's designee to develop a system of annual performance evaluations. Requires that merit pay for corporation employees be based on the system established under this subsection.

(e) Requires the chief executive officer or the chief executive officer's designee to 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) Authorizes the chief executive officer to appoint an internal auditor for the corporation, who is authorized to be an employee of the corporation. Requires that the appointment of the internal auditor be approved by the board of directors. Authorizes the board of directors to require the internal auditor to submit specified reports directly to the board of directors.

(g) Provides that, except as otherwise provided by this subchapter, employees of the corporation are state employees for all purposes, including for accrual of leave time, insurance benefits, and retirement benefits; for Chapter 104 (State Liability for Conduct of Public Servants), Civil Practice and Remedies Code; and for Chapter 501 (Workers' Compensation Insurance Coverage for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech University), Labor Code.

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

(b) Prohibits any action taken by the corporation, including the acceptance of benefits under a contract, from being construed to waive the corporation's sovereign immunity, including immunity from suit or from liability.

(c) Provides that Subchapter C (Contested Case Hearing), Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code, does not apply to the corporation.

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

(b) Authorizes insurance purchased or acquired by the corporation under this section to protect against any type of liability to third persons that might be incurred while conducting corporation business, and to provide for all costs of defending a cause of action for such liability, including court costs and attorney's fees.

(c) Provides that 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) Requires the board of directors to adopt an ethics policy that provides standards of conduct relating to the management and investment of the PSF in accordance with Section 43.0031(a) (relating to requiring SBOE to adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the PSF). Requires that the ethics policy include provisions applicable to members of the board of directors, employees of the corporation, and any person who provides services to the corporation relating to the management or investment of the PSF.

(b) Requires 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 PSF to 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 PSF.

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

(d) Prohibits a person who makes a written disclosure under Subsection (b) stating a possible conflict of interest from giving advice or making decisions about a matter affected by the possible conflict of interest unless the board of directors expressly waives this prohibition. Authorizes the board of directors to delegate the authority to waive the prohibition established by this subsection.

Sec. 43.059. **APPLICABILITY OF CERTAIN LAWS.** (a) Provides that, except as otherwise provided by and to the extent consistent with this subchapter, Title 1 (General Provisions), Business Organizations Code, and Chapter 22 (Nonprofit Corporations), Business Organizations Code, apply to the corporation.

(b) Provides that, subject to Section 43.060, the corporation is a governmental body for purposes of Chapter 551 (Open Meetings), Government Code.

(c) Provides that the corporation is exempt from:

(1) Chapters 654 (Position Classification) and 660 (Travel Expenses), Government Code, and Subchapter K (Promotions, Reclassifications, and Other Adjustments to Salary), Chapter 659 (Compensation), 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 (State Purchasing and General Services), Title 10 (General Government), Government Code, and Chapters 2254 (Professional and Consulting Services), 2261 (State Contracting Standards and Oversight), and 2262 (Statewide Contract Management), Government Code;

(3) the franchise tax under Chapter 171 (Franchise Tax), 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) Defines "private investment fund," "reinvestment," and "restricted securities."

(b) Authorizes the board of directors to conduct a closed meeting in accordance with Subchapter E (Procedures Relating to Closed Meeting), 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 (Confidentiality of Certain Investment Information), Government Code, the information discussed would be confidential and excepted from the requirements of Section 552.021 (Availability of Public Information), 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) Requires that any vote or final action taken on a procurement described by Subsection (b)(3) be conducted in an open meeting.

Sec. 43.061. RECORD RETENTION. (a) Provides that Subchapter L (Preservation and Management of State Records and Other Historical Resources), Chapter 441 (Libraries and Archives), Government Code, does not apply to the corporation.

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

Sec. 43.062. INFORMATION TECHNOLOGY AND ASSOCIATED RESOURCES. (a) Provides that Chapters 2054 (Information Resources) and 2055 (Electronic Grant System), 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) Provides that the corporation is required to control all aspects of, and is authorized to contract with third parties for, certain services and elements relating to the corporation's information technology and associated resources.

(c) Requires the Department of Information Resources (DIR) to assist the corporation at the request of the corporation, and to consider the corporation a customer of DIR. Authorizes the corporation, notwithstanding any other law, to purchase any item through DIR and to contract with DIR for and use any service available through DIR.

Sec. 43.063. GENERAL POWERS AND DUTIES OF CORPORATION. (a) Authorizes the corporation to amend the articles of incorporation adopted by SBOE when the corporation was established, subject to SBOE approval.

(b) Authorizes the corporation to adopt and amend bylaws for the corporation, subject to SBOE approval; resolutions and policies of the corporation; and any other document necessary to carry out the corporation's purpose.

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

(d) Requires the corporation to make all purchases of goods and services in accordance with applicable fiduciary duties and authorizes the corporation to use purchasing methods that ensure the best value to the corporation. Authorizes the corporation, in determining best value, to consider the best value standards

applicable to state agencies under Section 2155.074 (Best Value Standard for Purchase of Goods or Services), Government Code.

(e) Authorizes the corporation to delegate investment authority for the investment of the PSF to one or more private professional investment managers, or to contract with one or more private professional investment managers to assist the corporation in making investments of the PSF.

(f) Authorizes the corporation to receive, transfer, and disburse money and securities of the PSF as provided by statute or the Texas Constitution, except that the corporation is prohibited from distributing money from the PSF to the ASF except as authorized under Section 43.066.

(g) Authorizes the corporation to 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.** Authorizes the corporation to contract with a state agency or another entity to provide operational support, facilities, information and data technology, staff, or other support for the corporation. Authorizes, but does not require, the corporation to request allocation of space to the corporation under Subchapter C (Allocation of Space), Chapter 2165 (State Buildings, Grounds, and Property), Government Code.

Sec. 43.065. **WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE EVALUATION.** Requires the board of directors, in accordance with Section 43.004 (Written Investment Objectives; Performance Evaluation), to develop written investment objectives concerning the investment of the PSF and to employ a well-recognized performance measurement service to evaluate and analyze the investment results of the PSF.

Sec. 43.066. **DISTRIBUTIONS BY CORPORATION FROM PERMANENT SCHOOL FUND TO AVAILABLE SCHOOL FUND.** (a) Authorizes the corporation to distribute from the PSF to the ASF under Section 5(g) (relating to authorizing SBOE, GLO, or another responsible entity to distribute revenue derived from certain land or properties to the PSF), 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) Requires the corporation, in developing the rules for distributions under Subsection (a), to develop and establish an annual minimum distribution rate that the corporation will use in making a distribution from the PSF to the ASF each state fiscal year. Authorizes the corporation, in developing the annual minimum distribution rate under this subsection, to consider:

(1) transfers made from the PSF to the ASF under Section 43.002 (Transfers From Permanent School Fund and General Revenue Fund to Available School Fund) in accordance with Section 5(a) (relating to providing that the PSF consists of certain properties and their revenue and setting forth guidelines for the distributions of that revenue to the ASF), 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.** Requires the corporation, SBOE, and the Texas Education Agency (TEA) to coordinate to determine the corporation's role in the operation and management of the PSF in connection with the bond guarantee program under Subchapter C (Guaranteed Bonds), Chapter 45 (School District Funds), 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) Requires the board of directors, not less than once each year, to submit to the Legislative Budget Board (LBB) an audit report regarding the operations of the corporation.

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

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

Sec. 43.069. ANNUAL INVESTMENT REPORT. Requires the corporation to annually submit to SBOE and GLO a report on the allocation of assets and investment performance of the portion of the PSF for which the corporation is responsible.

Sec. 43.070. REPORT ON ANTICIPATED TRANSFER TO AVAILABLE SCHOOL FUND. Requires the corporation, not later than November 1 of each even-numbered year, to submit to the legislature, Comptroller of Public Accounts of the State of Texas, SBOE, and LBB 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 PSF to the ASF under Section 43.066.

Sec. 43.071. GIFTS, GRANTS AND DONATIONS. Authorizes the corporation to 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 PSF.

SECTION 1.07. Amends Section 2157.068(j), Government Code, as follows:

(j) Authorizes certain entities to purchase commodity items through DIR, and be charged a reasonable administrative fee, as provided by Section 2157.068 (Purchase of Information Technology Commodity Items), including the corporation, if incorporated under Section 43.052, Education Code. Makes nonsubstantive changes.

SECTION 1.08. Repealer: Section 43.006(b) (relating to authorizing SBOE to enter into a contract with a nonprofit corporation to invest funds under the control and management of SBOE, including the PSF), Education Code.

Repealer: Section 43.006(c) (relating to requiring SBOE to approve the articles of incorporation and certain policies of a nonprofit corporation), Education Code.

Repealer: Section 43.006(d) (relating to requiring the board of directors of the nonprofit corporation to be members of SBOE), Education Code.

Repealer: Section 43.006(e) (relating to requiring SBOE to audit the PSF if an investment contract entered into under Subsection (b) includes the PSF), Education Code.

Repealer: Section 43.006(f) (relating to requiring the nonprofit corporation to file quarterly reports with SBOE concerning matters required by SBOE), Education Code.

Repealer: Section 43.006(g) (relating to providing that the nonprofit corporation is subject to the Texas Non-Profit Corporation Act), Education Code.

Repealer: Section 43.006(h) (relating to prohibiting the nonprofit corporation from entering into an agreement or transaction with certain entities), Education Code.

Repealer: Section 43.006(i) (relating to providing that an agreement or transaction entered into in violation of Subsection (h) is void), Education Code.

Repealer: Section 43.006(j) (relating to providing that a person has an interest in a business entity if the person owns a certain percentage of the entity or receives a certain amount of money from the entity), Education Code.

Repealer: Section 43.006(k) (relating to defining "institution" and "institutional fund"), Education Code.

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

SECTION 2.01. Amends Section 51.001, Natural Resources Code, by adding Subdivisions (13) and (14) to define "real property holding" and "investment vehicle" for Chapter 51 (Land, Timber, and Surface Resources).

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

(a) Requires that any land, mineral or royalty interest, or real property holding, and revenue received from any land or real property holding, rather than any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the PSF under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, be subject to the sole and exclusive management and control of SLB and the commissioner under the provisions of this chapter and other applicable law. Makes a nonsubstantive change.

(a-1) Makes conforming and nonsubstantive changes to this subsection.

(a-3) Requires that 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 SLB under this subsection, be transferred each month to the corporation for investment in the PSF.

SECTION 2.03. Amends Section 51.017, Natural Resources Code, as follows:

Sec. 51.017. New heading: FURNISHING DATA TO TEXAS PERMANENT SCHOOL FUND CORPORATION. Requires the commissioner, on request, to furnish to the corporation, rather than to SBOE, all available data.

SECTION 2.04. Amends Section 51.401(a), Natural Resources Code, to make conforming changes.

SECTION 2.05. Amends Section 51.402(a), Natural Resources Code, as follows:

(a) Authorizes SLB to use funds designated under Section 51.401 (Real Estate Special Fund Account) for any of certain purposes. Deletes existing text creating an exception under Subsection (c) (relating to prohibiting the market value of certain investments made by SLB using the Real Estate Special Fund Account from exceeding an amount that is equal to 15 percent of the market value of the PSF on that date).

SECTION 2.06. Amends Section 51.4021, Natural Resources Code, as follows:

Sec. 51.4021. New heading: APPOINTMENT OF INVESTMENT CONSULTANTS OR ADVISORS. (a) Authorizes SLB to appoint investment consultants or advisors to assist SLB in using funds designated under Section 51.401 in a manner authorized under Section 51.402 (Use of Designated Funds) by contracting for professional investment

advisory services with one or more organizations that are in the business of advising on the management of real estate investments.

Deletes existing text authorizing SLB to appoint investment managers to invest or assist SLB in investing funds designated under Section 51.401 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. Makes nonsubstantive changes.

(b)-(d) Makes conforming and nonsubstantive changes to these subsections.

SECTION 2.07. Amends the heading to Section 51.412, Natural Resources Code, to read as follows:

Sec. 51.412. REPORT ON USE OF CERTAIN MONEY.

SECTION 2.08. Amends Sections 51.412(a) and (c), Natural Resources Code, as follows:

(a) Requires SLB, not later than September 1 of each even-numbered year, to submit to the legislature, the corporation, and the LBB, rather than to the legislature, a report that, specifically and in detail, assesses the direct and indirect economic impact, as anticipated by SLB, of the use of certain funds, rather than the investment of certain funds, including funds retained by SLB as provided by Section 51.011(a-3). Makes nonsubstantive changes.

(c) Requires that the report 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 PSF that SLB intends to use in a manner authorized under Section 51.402, rather than intends to invest;

(2) the amount of funds retained by SLB as provided by Section 51.011(a-3) and the purposes for which SLB intends to use those funds, rather than the rate of return SLB expects to attain on the investment;

(3) the amount of the funds SLB expects to distribute to the ASF or the corporation for investment in the PSF under Section 51.413, rather than to the ASF or SBOE for investment in the PSF after making the investments;

(4) redesignates existing Subdivision (6) as Subdivision (4) and makes conforming and nonsubstantive changes; and

(5) redesignates existing Subdivision (7) as Subdivision (5) and makes no further changes.

Deletes existing text requiring that the report include the distribution of SLB's investments by county and the effect of SLB's investments on the level of employment, personal income, and capital investment in the state.

SECTION 2.09. Amends Section 51.413, Natural Resources Code, as follows:

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

(a) and (b) Makes conforming changes to these subsections.

SECTION 2.10. (1) Repealer: Section 43.0052 (Quarterly Reports), Education Code.

(2) Repealers: Sections 32.0161 (Annual Joint Meeting) and 32.068 (Quarterly Reports), Natural Resources Code.

(3) Repealer: Section 51.402(c) (relating to prohibiting the market value of certain investments made by SLB using the Real Estate Special Fund Account from exceeding an amount that is equal to 15 percent of the market value of the PSF on that date), Natural Resources Code, as amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the 86th Legislature, Regular Session, 2019.

(4) Repealers: Sections 51.4131 (Report on Anticipated Transfer of Funds) and 51.414 (Permanent School Fund Liquid Account), Natural Resources Code.

SECTION 2.11. (a) Provides that 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 SBOE, TEA, SLB, and the corporation, as applicable:

(1) all powers, duties, functions, programs, and activities of SBOE and TEA relating to the management and investment of the PSF transfer to the corporation by operation of law; and

(2) all powers, duties, functions, programs, and activities of SLB relating to assets or investments of the PSF described by Section 2.15(a)(1) of this article transfer to the corporation by operation of law.

(b) Authorizes the corporation to 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 PSF.

(c) Provides that all rules, policies, and procedures relating to the management and investment of the PSF adopted by SBOE or SLB before the transfer under this section remain in effect until the corporation adopts substitute rules, policies, or procedures. Requires the corporation, in the event of a conflict between rules, policies, or procedures adopted by SBOE and rules, policies, or procedures adopted by SLB, to determine which rules, policies, or procedures control.

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

(1) an employee of the PSF division of TEA or the investment management division of GLO becomes an employee of the 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 TEA or GLO, as applicable, to the corporation.

SECTION 2.13. (a) Requires SBOE, 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, to enter into a memorandum of understanding with any state agency SBOE determines necessary to provide for the transfer to or continued use by the corporation for a period determined by SBOE 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 PSF.

(b) Provides that 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 corporation is transferred to that corporation.

SECTION 2.14. (a) Requires SBOE and TEA, not later than March 30, 2023, to provide to the corporation all financial, contract, and investment records and documents maintained by SBOE, TEA, or a service provider of SBOE or TEA relating to the management or investment of the PSF.

(b) Provides that, 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 PSF held by SBOE or TEA and any related contracts are transferred to the 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) Requires SBOE and TEA to retain any assets or investments that would otherwise be transferred to the 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 would have an adverse effect on the PSF or on any asset or investment set apart to the PSF, or is not in the best interest of the PSF.

(d) Requires SBOE, TEA, and the corporation, if an asset or investment required to be transferred to the corporation under Subsection (b) of this section cannot be transferred to the corporation in a timely manner, to coordinate concerning the appropriate timing of the transfer or other disposition of the asset or investment.

(e) Requires SBOE and the corporation to coordinate the ongoing management or other disposition of any assets or investments retained by SBOE or TEA under Subsection (c) or (d) of this section, including providing direction to TEA regarding the asset or investment, the funding of any outstanding commitments related to the asset or investment, the handling of any distributions, income, or revenues from the asset or investment, and the making of any decisions required with respect to the asset or investment.

SECTION 2.15. (a) Requires SLB, not later than January 31, 2023, to provide to:

(1) the corporation a list of each asset and investment acquired on or after September 1, 2001, and held by SLB 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 (Definitions), 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 corporation under this section.

(b) Requires SLB, not later than March 30, 2023, to provide to the corporation all financial, contract, and investment records and documents maintained by SLB, GLO, or a service provider of SLB or GLO relating to the operations associated with or the management of an asset or investment identified under Subsection (a)(1) of this section.

(c) Provides that, 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 SLB to the 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) Requires SLB to retain any assets or investments that would otherwise be transferred to the 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 would have an adverse effect on the PSF or on any asset or investment set apart to the PSF, or is not in the best interest of the PSF.

(e) Requires SLB and the corporation, if an asset or investment required to be transferred to the corporation under Subsection (c) of this section cannot be transferred to the corporation by December 31, 2023, to coordinate concerning the appropriate timing of the transfer or other disposition of the asset or investment.

(f) Requires SLB and the corporation to coordinate the ongoing management or other disposition of any assets or investments retained by SLB under Subsection (d) or (e) of this section, including the funding of any outstanding commitments related to the asset or investment, the handling of any distributions, income, or revenues from the asset or investment, and the making of any decisions required with respect to the asset or investment.

(g) Requires that not later than December 31, 2023, all cash holdings related to or derived from PSF assets held by SLB be transferred to the corporation for deposit to the credit of the PSF.

(h) Provides that on the date on which the corporation determines that all outstanding commitments required to be paid from the PSF liquid account have been fully resolved, the account is abolished and the balance of that account is transferred to the PSF.

SECTION 2.16. Provides that this article takes effect December 31, 2022, but only if SBOE incorporates the corporation under Subchapter B, Chapter 43, Education Code, as added by this Act, on or before that date. Provides that if SBOE does not incorporate the corporation on or before December 31, 2022, this article has no effect.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date, except as otherwise provided by this Act: September 1, 2021.