

By: Taylor

S.B. No. 1232

A BILL TO BE ENTITLED

AN ACT

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.

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

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

1 in this state, including all land recovered by the state by suit or  
2 otherwise except pine forest land as described [~~defined~~] by Section  
3 [88.111](#) and property described by Section [12.128](#);

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

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

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

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

13 SECTION 1.03. Section [43.003](#), Education Code, is amended to  
14 read as follows:

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

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

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

27 [~~(3) corporate bonds, debentures, or obligations of~~

1 ~~United States corporations of at least "A" rating,~~

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

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

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

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

17 ~~[(B) the attorney general's certificate of~~  
18 ~~validity procured by the party offering the bonds, obligations, or~~  
19 ~~pledges must accompany the securities when they are submitted for~~  
20 ~~registration to the comptroller, who must preserve the~~  
21 ~~certificates,~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 SUBCHAPTER B. TEXAS PERMANENT SCHOOL FUND CORPORATION

26 Sec. 43.051. DEFINITIONS. In this subchapter:

- 27 (1) "Board of directors" means the board of directors

1 of the corporation.

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

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

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

10 (1) the permanent school fund under Section 43.003;  
11 and

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

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

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

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

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

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

26 (3) one member appointed by the commissioner of the  
27 General Land Office who has substantial background and expertise in

1 investments and asset management; and

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

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

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

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

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

17 (d) The initial members described by Subsection (c) shall  
18 determine by lot which one of the initial members will serve a term  
19 expiring January 1 of the first odd-numbered year following the  
20 establishment of the corporation, which one of the initial members  
21 will serve a term expiring January 1 of the second odd-numbered year  
22 following the establishment of the corporation, and which one of  
23 the initial members will serve a term expiring January 1 of the  
24 third odd-numbered year following the establishment of the  
25 corporation.

26 (e) Appointments to the board of directors must be made  
27 without regard to the race, color, disability, sex, religion, age,

1 or national origin of the appointees.

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

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

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

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

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

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

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

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

24 (e) The chief executive officer or the chief executive  
25 officer's designee shall prepare and maintain a written policy  
26 statement to assure implementation of a program of equal employment  
27 opportunity under which all personnel decisions are made without



1 regard to race, color, disability, sex, religion, age, or national  
2 origin.

3 (f) The chief executive officer may appoint an internal  
4 auditor for the corporation, who may be an employee of the  
5 corporation. The appointment of the internal auditor must be  
6 approved by the board of directors. The board of directors may  
7 require the internal auditor to submit specified reports directly  
8 to the board of directors.

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

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

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

15 (3) Chapter 501, Labor Code.

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

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

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

26 Sec. 43.057. LIABILITY INSURANCE FOR BOARD MEMBERS AND  
27 EMPLOYEES. (a) The corporation may purchase or otherwise acquire

1 insurance to protect members of the board of directors and  
2 employees of the corporation, subject to Subsection (c).

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

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

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

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

14 Sec. 43.058. ETHICS POLICY; CONFLICTS OF INTEREST.

15 (a) The board of directors shall adopt an ethics policy that  
16 provides standards of conduct relating to the management and  
17 investment of the permanent school fund in accordance with Section  
18 43.0031(a). The ethics policy must include provisions applicable  
19 to:

20 (1) members of the board of directors;

21 (2) employees of the corporation; and

22 (3) any person who provides services to the  
23 corporation relating to the management or investment of the  
24 permanent school fund.

25 (b) A member of the board of directors, an employee of the  
26 corporation, and a person who provides services to the corporation  
27 relating to the management or investment of the permanent school

1 fund shall disclose in writing to the corporation any business,  
2 commercial, or other relationship that could reasonably be expected  
3 to diminish the person's independence of judgment in the  
4 performance of the person's responsibilities relating to the  
5 management or investment of the permanent school fund.

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

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

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

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

21 (c) The corporation is exempt from:

22 (1) Chapters 654 and 660, Government Code, and  
23 Subchapter K, Chapter 659, Government Code, to the extent the board  
24 of directors determines that an exemption from those provisions is  
25 necessary for the corporation to perform the board's fiduciary  
26 duties under this subchapter;

27 (2) all state laws regulating or limiting purchasing

1 by state agencies, including Subtitle D, Title 10, Government Code,  
2 and Chapters 2254, 2261, and 2262, Government Code;

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

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

6 Sec. 43.060. EXCEPTION TO OPEN MEETING REQUIREMENTS FOR  
7 CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) In this  
8 section, "private investment fund," "reinvestment," and  
9 "restricted securities" have the meanings assigned by Section  
10 552.143, Government Code.

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

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

24 (2) the purchase, holding, or disposal of restricted  
25 securities or a private investment fund's investment in restricted  
26 securities if, under Section 552.143, Government Code, the  
27 information discussed would be confidential and excepted from the

1 requirements of Section 552.021, Government Code, if the  
2 information were included in the records of a governmental body; or

3 (3) a procurement proposed to be awarded by the board  
4 of directors if, before conducting the closed meeting, a majority  
5 of the board of directors in an open meeting vote that deliberating  
6 or conferring in an open meeting would have a detrimental effect on  
7 the corporation's position in negotiations with third parties.

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

11 Sec. 43.061. RECORD RETENTION. (a) Subchapter L, Chapter  
12 441, Government Code, does not apply to the corporation.

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

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

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

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

27 (2) procurement of hardware, software, and middleware

1 and telecommunications equipment and systems;

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

5 (4) data processing;

6 (5) security;

7 (6) disaster recovery; and

8 (7) storage.

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

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

17 (b) The corporation may adopt and amend:

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

20 (2) resolutions and policies of the corporation; and

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

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

1       (d) The corporation shall make all purchases of goods and  
2 services in accordance with applicable fiduciary duties and may use  
3 purchasing methods that ensure the best value to the corporation.  
4 In determining best value, the corporation may consider the best  
5 value standards applicable to state agencies under Section  
6 2155.074, Government Code.

7       (e) The corporation may:

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

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

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

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

22       Sec. 43.064. CONTRACTING FOR FACILITIES AND NECESSARY  
23 SUPPORT. The corporation may contract with a state agency or  
24 another entity to provide operational support, facilities,  
25 information and data technology, staff, or other support for the  
26 corporation. The corporation may but is not required to request  
27 allocation of space to the corporation under Subchapter C, Chapter

1 2165, Government Code.

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

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

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

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

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

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

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



1           (3) any other factors the corporation determines  
2 relevant.

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

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

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

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

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

24           Sec. 43.070. REPORT ON ANTICIPATED TRANSFER TO AVAILABLE  
25 SCHOOL FUND. Not later than November 1 of each even-numbered year,  
26 the corporation shall submit to the legislature, comptroller, State  
27 Board of Education, and Legislative Budget Board a report that in

1 detail specifically states the date a transfer will be made and the  
2 amount the corporation will transfer during the subsequent state  
3 fiscal biennium from the permanent school fund to the available  
4 school fund under Section 43.066.

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

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

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

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

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

21 (14) "Investment vehicle" means:

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

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

26 (C) a real estate investment trust;

27 (D) an investment managed by a third party

1 alongside a multi-asset closed-end or open-end investment fund that  
2 is also managed by the third party or by any of the third party's  
3 related persons or affiliates; or

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

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

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

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

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

24 (a-1) The board may acquire, sell, lease, trade, improve,  
25 maintain, protect, or otherwise manage, control, or use land,  
26 mineral and royalty interests, or real property holdings, and  
27 [~~estate investments, or other interests, including~~] revenue

1 received from land or real property holdings [~~those sources~~], that  
2 are set apart to the permanent school fund in any manner, at such  
3 prices, and under such terms and conditions as the board finds to be  
4 in the best interest of the fund.

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

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

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

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

20 (a) The board may designate funds or revenue received from  
21 any land or real property holdings, and any proceeds received from  
22 the sale of any mineral or royalty interest, [~~real estate~~  
23 ~~investment, or other interest, including revenue received from~~  
24 ~~those sources,~~] that is set apart to the permanent school fund under  
25 the constitution and laws of this state together with the mineral  
26 estate in riverbeds, channels, and the tidelands, including  
27 islands, for deposit in the real estate special fund account of the

1 permanent school fund in the State Treasury to be used by the board  
2 as provided by this subchapter.

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

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

8 (1) to add to a tract of public school land to form a  
9 tract of sufficient size to be manageable;

10 (2) to add contiguous land to public school land;

11 (3) to acquire, as public school land, interests in  
12 real property for biological, residential, commercial, geological,  
13 cultural, or recreational purposes;

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

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

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

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

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

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

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

12 (b) To be eligible for appointment under this section, an  
13 investment [~~manager,~~ consultant~~]~~ or advisor shall agree to abide  
14 by the policies, requirements, or restrictions, including ethical  
15 standards and disclosure policies and criteria for determining the  
16 quality of investments and for the use of standard rating services,  
17 that the board adopts for real estate investments of the permanent  
18 school fund. Funds designated under Section 51.401 may not be  
19 invested in a real estate investment trust, as defined by Section  
20 200.001, Business Organizations Code.

21 (c) Compensation paid to an investment [~~manager,~~  
22 consultant~~]~~ or advisor by the board must be consistent with the  
23 compensation standards of the investment industry and compensation  
24 paid by similarly situated institutional investors.

25 (d) Chapter 2263, Government Code, applies to investment  
26 [~~managers,~~ consultants and~~]~~ or advisors appointed under this  
27 section. The board by rule shall adopt standards of conduct for

1 investment [~~managers,~~] consultants and[~~, or~~] advisors appointed  
2 under this section as required by Section 2263.004, Government  
3 Code, and shall implement the disclosure requirements of Section  
4 2263.005 of that code.

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

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

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

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

17 (1) retained by the board as provided by Section  
18 51.011(a-3); or

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

21 (c) The report must include the following information:

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

26 (2) the amount of funds retained by [~~rate of return~~]  
27 the board as provided by Section 51.011(a-3) and the purposes for

1 which the board intends to use those funds [~~expects to attain on the~~  
2 ~~investment~~];

3 (3) the amount of the funds the board expects to  
4 distribute to the available school fund or the Texas Permanent  
5 School Fund Corporation [~~State Board of Education~~] for investment  
6 in the permanent school fund under Section 51.413 [~~after making the~~  
7 ~~investments~~];

8 (4) [~~the distribution of the board's investments by~~  
9 ~~county~~;

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

13 [~~(6)~~] the amounts of all fees or other compensation  
14 paid by the board to investment [~~managers~~] consultants and [~~or~~]  
15 advisors appointed or organizations contracted with under Section  
16 51.4021; and

17 (5) [~~(7)~~] any other information the board considers  
18 necessary to include in the report.

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

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

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



1 (1) the available school fund; or

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

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

11 SECTION 2.10. The following provisions are repealed:

12 (1) Section 43.0052, Education Code;

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

15 (3) Section 51.402(c), Natural Resources Code, as  
16 amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the  
17 86th Legislature, Regular Session, 2019; and

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

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

25 (1) all powers, duties, functions, programs, and  
26 activities of the State Board of Education and the Texas Education  
27 Agency relating to the management and investment of the permanent

1 school fund transfer to the Texas Permanent School Fund Corporation  
2 by operation of law; and

3 (2) all powers, duties, functions, programs, and  
4 activities of the School Land Board relating to assets or  
5 investments of the permanent school fund described by Section  
6 2.15(a)(1) of this article transfer to the Texas Permanent School  
7 Fund Corporation by operation of law.

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

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

23 SECTION 2.12. On the date the transfers under Section  
24 2.11(a) of this article occur:

25 (1) an employee of the permanent school fund division  
26 of the Texas Education Agency or the investment management division  
27 of the General Land Office becomes an employee of the Texas

1 Permanent School Fund Corporation; and

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

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

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

25           SECTION 2.14. (a) Not later than March 30, 2023, the State  
26 Board of Education and the Texas Education Agency shall provide to  
27 the Texas Permanent School Fund Corporation all financial,

1 contract, and investment records and documents maintained by the  
2 board, the agency, or a service provider of the board or agency  
3 relating to the management or investment of the permanent school  
4 fund.

5 (b) Except as provided by Subsection (c) or (d) of this  
6 section, as soon as practicable after the effective date of this  
7 article and not later than the date the transfers under Section  
8 2.11(a) of this article occur, all assets and investments of the  
9 permanent school fund held by the State Board of Education or the  
10 Texas Education Agency and any related contracts are transferred to  
11 the Texas Permanent School Fund Corporation by operation of law in  
12 accordance with applicable law and any governing documentation  
13 applicable to those assets, investments, or contracts, including  
14 any applicable limited partnership agreement, limited liability  
15 company agreement, subscription agreement, letter agreement, or  
16 side letter.

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

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

24 (2) the transfer of the asset or investment:

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

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

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

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

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

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

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

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

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

25                   (1) the Texas Permanent School Fund Corporation a list  
26 of each asset and investment acquired on or after September 1, 2001,  
27 and held by the board on January 31, 2023, other than sovereign or

1 other state lands, mineral or royalty interests, or real property  
2 holdings, as that term is defined by Section 51.001, Natural  
3 Resources Code, as amended by this article, and information on  
4 unfunded commitments and funding obligations related to the asset  
5 or investment; and

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

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

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

27 (d) The School Land Board shall retain any assets or

1 investments that would otherwise be transferred to the Texas  
2 Permanent School Fund Corporation under Subsection (c) of this  
3 section if the corporation determines that:

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

7 (2) the transfer of the asset or investment:

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

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

13 (e) If an asset or investment required to be transferred to  
14 the Texas Permanent School Fund Corporation under Subsection (c) of  
15 this section cannot be transferred to the corporation by December  
16 31, 2023, the School Land Board and the corporation shall  
17 coordinate concerning the appropriate timing of the transfer or  
18 other disposition of the asset or investment.

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

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

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

27 (3) the making of any decisions required with respect

1 to the asset or investment.

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

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

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

19 ARTICLE 3. EFFECTIVE DATE

20 SECTION 3.01. Except as otherwise provided by this Act,  
21 this Act takes effect September 1, 2021.