

BILL ANALYSIS

Senate Research Center
89R32738 CS-F

C.S.H.B. 104
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Finance
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' conservative policies and robust economy have fostered a strong fiscal outlook for the state budget, with a projected Economic Stabilization Fund (ESF) balance of \$28.5 billion in fiscal year 2027. The ESF serves as the state's primary reserve emergency fund, a role that requires high liquidity and typically yields moderate investment returns. At the same time, Texas continues to lead the nation in advancing and commercializing frontier technologies, including advanced nuclear technology, semiconductors, artificial intelligence, space exploration, and aerospace. A larger ESF balance creates an opportunity to implement investment strategies that drive long-term growth and high returns, while reinforcing the state's leadership in emerging industries. To capitalize on this potential, H.B. 104 proposes the creation of the Texas Future Fund, a separately managed account within the ESF, aimed at generating higher investment returns for the state.

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

C.S.H.B. 104 amends current law relating to the creation of the Texas future fund and the Texas future fund investment review board and to the permissible uses of money in the Texas future fund.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 4, Government Code, by adding Chapter 483, as follows:

CHAPTER 483. TEXAS FUTURE FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 483.0001. PURPOSES. Provides that the purposes of this chapter are to strengthen this state's proven leadership in supporting the advancement of innovative technologies and develop and diversify this state's economy by authorizing investments in frontier technology infrastructure, industry sectors critical to national defense, and other innovative technologies.

Sec. 483.0002. DEFINITIONS. Defines "board," "fund," and "trust company."

Sec. 483.0003. PUBLIC INFORMATION. (a) Provides that certain information is public information and authorized to be disclosed under Chapter 552 (Public Information).

(b) Provides that all information received by the Texas future fund investment review board (board), the Comptroller of Public Accounts of the State of Texas (comptroller), the Texas treasury safekeeping trust company (trust company), or a contractor of the comptroller or the trust company from or about an entity that has received an investment of money from the Texas future fund (fund) or an entity

that was considered for an investment of money from the fund that is not listed in Subsection (a) is confidential and excepted from disclosure under Chapter 552.

SUBCHAPTER B. CREATION AND OPERATION OF TEXAS FUTURE FUND

Sec. 483.0051. **CREATION OF FUND.** Provides that the fund is created as a separately managed account in the economic stabilization fund. Requires the comptroller to administer the fund.

Sec. 483.0052. **INVESTMENT OF MONEY IN FUND; ACCOUNTING.** (a) Requires the trust company, or the trust company's designated investment manager, in consultation with the board, to invest money in the fund in the manner authorized by this chapter.

(b) Authorizes the trust company or its investment manager, as provided by the investment policy adopted by the board under Section 483.0109, to invest the proceeds and other earnings received from the sale of stock or other investments made using money in the fund and any interest earned on amounts in the fund.

(c) Requires the trust company to credit to the fund all payments, distributions, interest, and other earnings attributable to the investment of money in the fund and provide separate accounting for, and reporting on, the investments made using money in the fund.

Sec. 483.0053. **INVESTMENT STANDARD.** Authorizes the trust company, in managing the investments made using money in the fund, in the manner authorized by the board, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the fund, taking into consideration the investment of all the assets of the fund rather than a single investment.

Sec. 483.0054. **PAYMENT OF FUND EXPENSES.** Requires that the reasonable expenses of administering and managing the fund and its assets be paid from the fund.

Sec. 483.0055. **EXCLUSION OF INVESTED AMOUNTS FROM CALCULATION OF CERTAIN OTHER FUND BALANCES.** Provides that the amount of money invested under this chapter is not included in the balance of the economic stabilization fund for purposes of Section 404.0241(b) (relating to requiring that at least 10 percent of the economic stabilization fund balance be invested in a manner that ensures the liquidity of that amount).

Sec. 483.0056. **THIRD-PARTY CONTRACTS.** (a) Authorizes the trust company to enter into a contract with one or more qualified third parties for the administration, management, and custody of the assets of the fund and any other responsibilities authorized under this chapter. Requires that a contract described by this subsection require the third party to act in a fiduciary capacity with respect to the assets of the fund.

(b) Requires the trust company to contract with a certified public accountant to perform an annual independent audit of the fund and to evaluate and report on compliance with Section 483.0105.

(c) Authorizes the trust company to contract with a licensed attorney to review contracts and other legal documents.

SUBCHAPTER C. TEXAS FUTURE FUND INVESTMENT REVIEW BOARD

Sec. 483.0101. **CREATION OF BOARD; COMPTROLLER SUPPORT.** (a) Establishes the board to serve as the governing body of the fund.

- (b) Requires the comptroller to provide administrative support and resources to the board as necessary for the board to perform its duties under this chapter.

Sec. 483.0102. BOARD COMPOSITION. (a) Provides that the board is composed of the following nine members:

- (1) three members appointed by the comptroller;
- (2) two members appointed by the governor;
- (3) two members appointed by the lieutenant governor; and
- (4) two members appointed by the governor from a list of candidates for appointment provided by the speaker of the house of representatives.

- (b) Provides that, in making appointments to the board:

- (1) under Subsections (a)(1)-(3), the comptroller, governor, and lieutenant governor are required to each appoint one member with experience in private equity, venture capital, or a similar field and one member with experience in frontier technology infrastructure, an industry sector that is critical to national defense, or another innovative technology;

- (2) under Subsection (a)(4), the governor is required to appoint one candidate for appointment with experience in private equity, venture capital, or a similar field and one candidate for appointment with experience in frontier technology infrastructure, an industry sector that is critical to national defense, or another innovative technology; and

- (3) the comptroller is required to appoint at least one member with experience managing, directing, overseeing, or investing public funds or public pension assets.

- (c) Authorizes the governor to reject one or more of the candidates on a list submitted by the speaker of the house of representatives under Subsection (a)(4) and request a list of additional candidates for appointment.

- (d) Requires the comptroller to designate one member appointed under Subsection (a)(1) as the presiding officer of the board.

Sec. 483.0103. BOARD MEMBER TERMS; VACANCY. (a) Provides that board members serve staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

- (b) Requires the appropriate appointing authority, not later than the 30th day after the date a board member's term expires, to appoint a replacement as provided by Section 483.0102.

- (c) Requires that a vacancy on the board be filled in the same manner and provides that it is subject to the same qualifications as the original appointment. Requires a board member appointed to fill a vacancy on the board to serve the remainder of the unexpired term.

Sec. 483.0104. ELIGIBILITY FOR APPOINTMENT TO BOARD. Provides that a person is not eligible for appointment to the board if the person or the person's spouse is employed by, or participates in, the management of a business entity or other organization receiving an investment from the fund or owns or controls, directly or indirectly, an interest in a business entity or other organization receiving an investment from the fund.

Sec. 483.0105. CONFLICTS OF INTEREST. (a) Requires the board, subject to the comptroller's approval, to adopt a code of ethics, including conflict of interest standards, based on standards of professional conduct and ethics common in the financial industry for conduct governing members of the board and the investment decision-making process. Requires each member of the board to affirm in writing the member's compliance with the code of ethics and the corresponding conflict of interest standards.

(b) Requires that the conflict of interest standards, at a minimum, define conflicts of interest and address appropriate standards for recusal, required disclosure of conflicts, waivers of conflicts, and actions required to address undisclosed conflicts.

Sec. 483.0106. BOARD MEMBER TRAINING. (a) Provides that, before a member of the board is authorized to assume the member's duties, the member is required to complete a training course provided by the comptroller.

(b) Requires that a training course required under this section provide information to the board member regarding the role and functions of the board and the requirements of Chapters 551 (Open Meetings) and 552.

Sec. 483.0107. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Requires members of the board to serve without compensation but be reimbursed for their actual expenses incurred in attending meetings of the board or in performing other work of the board when that work is approved by the presiding officer of the board.

Sec. 483.0108. BOARD MEETINGS. (a) Requires the board to meet at least twice each year to review the fund's investments.

(b) Authorizes the board to conduct a closed meeting in accordance with Subchapter E (Procedures Related to Closed Meetings), Chapter 551, to discuss issues related to managing, acquiring, or selling securities.

Sec. 483.0109. GENERAL POWERS AND DUTIES OF BOARD. (a) Requires the board to oversee the investment of the assets of the fund and provide guidance on the investment strategy to be used to manage the assets of the fund.

(b) Requires the board to develop and require adherence to procedures for operational and investment due diligence on investment opportunities that meet the requirements of this chapter. Requires that the procedures be based upon financial industry best practices.

(c) Requires the board to develop and maintain a list of target industries and investment opportunities that represent sectors critical to national defense, frontier technologies with the greatest potential to drive innovation, and the diversification of this state's economy.

(d) Requires the board to establish an investment policy for the fund. Requires that the investment policy, subject to the comptroller's approval, at a minimum, include certain provisions.

(e) Requires the board to establish priorities for the fund's investment program biennially. Requires the board to consider those priorities when making investment decisions under this chapter.

Sec. 483.0110. INVESTMENT PROCEDURES. (a) Requires the board, subject to the comptroller's approval, to develop procedures for making investments under this chapter.

(b) Requires the trust company or the trust company's designated investment manager, for each investment being considered, to present its due diligence findings to the board; provide a written investment memorandum summarizing

the investment opportunity, along with an assessment of the expected investment risk and rate of return and estimated effect on this state's economy; and provide a summary of how each investment opportunity being recommended meets the overall objectives of the board's investment policy and related investment requirements.

Sec. 483.0111. BOARD REPORT. Requires the board, not later than December 31 of each even-numbered year, to a report to the legislature with certain information.

SECTION 2. Amends Section 404.0241, Government Code, by adding Subsection (b-6), as follows:

(b-6) Requires the comptroller, notwithstanding any other law, to designate \$500 million of the economic stabilization fund balance as the initial balance of a separately managed account in the economic stabilization fund. Requires that the account be known as the Texas future fund, administered by the comptroller, and managed in accordance with Chapter 483.

SECTION 3. Requires the comptroller, governor, and lieutenant governor, as soon as practicable after the effective date of this Act but not later than October 1, 2025, to appoint the initial members of the Texas future fund investment review board as required by Section 483.0102, Government Code, as added by this Act. Requires the initial members appointed to the board, other than the member designated as the presiding officer of the board, to draw lots to determine which three members serve a term that expires January 31, 2027, which three members serve a term that expires January 31, 2029, and which two members serve a term that expires January 31, 2031. Provides that the member designated as the presiding officer of the board serves a term that expires January 1, 2031.

SECTION 4. Effective date: upon passage or September 1, 2025.