

By: Curry

H.B. No. 5260

A BILL TO BE ENTITLED

AN ACT

relating to the investment of public funds by a local government in investment pools.

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

SECTION 1. Section 2256.016, Government Code, is amended by amending Subsection (a) and adding Subsection (1) to read as follows:

(a) Except as provided by Subsection (1), an [An] entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(1) A local government may invest funds in an investment pool only if the investment pool is managed by the comptroller or the Texas Treasury Safekeeping Trust Company.

SECTION 2. Subchapter A, Chapter 2256, Government Code, is amended by adding Section 2256.0175 to read as follows:

Sec. 2256.0175. DIVESTMENT OF CERTAIN FUNDS BY LOCAL GOVERNMENTS. (a) In this section, "restricted investment pool"

1 means an investment pool that is not managed by the comptroller or  
2 the Texas Treasury Safekeeping Trust Company.

3 (b) Notwithstanding Section 2256.017, a local government  
4 shall sell, redeem, divest, or withdraw all of its funds and funds  
5 under its control that are invested in a restricted investment pool  
6 in compliance with the following schedule:

7 (1) at least 50 percent of those funds must be removed  
8 from a restricted investment pool not later than the 180th day after  
9 the date the local government discovers that the funds are invested  
10 in a restricted investment pool, unless the local government  
11 determines, based on a good faith exercise of its fiduciary  
12 discretion and subject to Subdivision (2), that a later date is more  
13 prudent; and

14 (2) 100 percent of those funds must be removed from the  
15 restricted investment pool not later than the 360th day after the  
16 date the local government discovers that the funds are invested in a  
17 restricted investment pool.

18 (c) Except as provided by Subsection (b), a local government  
19 may delay the schedule for divestment under that subsection or  
20 otherwise cease divesting from a restricted investment pool only to  
21 the extent that the local government determines, in the local  
22 government's good faith judgment, and consistent with the local  
23 government's fiduciary duty, that divestment from the restricted  
24 investment pool will likely result in a loss in value or a benchmark  
25 deviation described by Subsection (d). If a local government  
26 delays the schedule for divestment or otherwise ceases to divest,  
27 the local government shall submit a report to the presiding officer

1 of each house of the legislature, the attorney general, and the  
2 comptroller stating the reasons and justification, supported by  
3 clear and convincing evidence, for the local government's delay in  
4 divestment from the restricted investment pool. The report must  
5 include documentation supporting the local government's  
6 determination that the divestment would result in a loss in value or  
7 a benchmark deviation described by Subsection (d), including  
8 objective numerical estimates. The local government shall update  
9 the report every six months.

10 (d) A local government may delay the schedule of divestment  
11 under Subsection (b) or otherwise cease divesting from one or more  
12 restricted investment pools under Subsection (c) only if clear and  
13 convincing evidence shows that divesting from the restricted  
14 investment pool will likely result in:

15 (1) the local government suffering a loss in the  
16 hypothetical value of all funds under management by the local  
17 government as a result of having to divest from restricted  
18 investment pools under this section; or

19 (2) an individual portfolio that uses a  
20 benchmark-aware strategy being subject to an aggregate expected  
21 deviation from its benchmark as a result of having to divest from  
22 restricted investment pools under this section.

23 SECTION 3. The changes in law made by this Act apply only to  
24 a contract entered into on or after the effective date of this Act.  
25 A contract entered into before that date is governed by the law in  
26 effect on the date the contract was entered into, and the former law  
27 is continued in effect for that purpose.

1 SECTION 4. This Act takes effect September 1, 2025.