

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 982
By: Duncan
Finance
4/22/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, all agencies that invest state funds have in place ethics guidelines and financial disclosure requirements for board members and staff involved in the investment decision-making process. The investment policies and disclosure requirements, however, vary from one agency to another. As proposed, C.S.S.B. 982 proposes a minimum set of ethics guidelines and financial disclosure requirements for any agency investing state funds.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing body of a state governmental entity that manages or invests state funds in SECTION 1 (Section 2262.006 and Section 2262.007. Government Code) of this bill.

Rulemaking authority is expressly granted to the state auditor in SECTION 1 (Section 2262.006, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10F, Government Code, by adding Chapter 2262, as follows:

CHAPTER 2262. ETHICS REQUIREMENTS FOR MANAGING OR INVESTING STATE FUNDS

Sec. 2262.001. **APPLICABILITY; CONSTRUCTION WITH OTHER LAW.** Provides that this chapter applies in connection with the management or investment of any state fund managed or invested under certain stated conditions. Provides that this chapter applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury. Provides that this chapter does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller. Provides that, to the extent of a conflict between this chapter and another law, the law that imposes a stricter ethics requirement controls.

Sec. 2262.002. **ETHICS REQUIREMENTS.** Requires, in addition to any other requirements provided by law, the governing body of a state governmental entity that manages or invests state funds or for which state funds are managed or invested to enforce an ethics policy as provided by this chapter for certain persons.

Sec. 2262.003. **ETHICS REQUIREMENTS FOR OFFICERS AND EMPLOYEES; FINANCIAL DISCLOSURE STATEMENT.** (a) Requires each officer and employee of a state governmental entity who exercises significant decision-making or fiduciary authority in connection with the management or investment of state funds, as determined by the governing body of the entity, to file a financial disclosure statement with a person designated by the

governing body and with the state auditor.

(b) Requires the content of the financial disclosure statement to substantially comply with the requirements of Chapter 572B (Personal Financial Statement).

(c) Requires the officer or employee to file financial personal statements according to a certain schedule. Authorizes the filing deadline to be postponed by certain persons and for certain reasons.

(d) Requires the state governmental entity to maintain a financial disclosure statement for at least five years after the date of its filing.

Sec. 2262.004. ETHICS REQUIREMENT FOR GOVERNING BODY, OFFICERS, AND EMPLOYEES: DISCLOSURE OF CERTAIN RELATIONSHIPS. (a) Requires a member of the governing body of, or an officer or employee of a state governmental entity who has a certain direct or indirect business or commercial relationship to disclose the relationship in writing to a person designated by the governing body and to the state auditor.

(b) Prohibits a person who files a disclosure statement under Subsection (a) or who is required to file such a statement from giving advice or making decisions about certain matters unless the governing body, after consultation with the general counsel of the state governmental entity, expressly waives this prohibition. Requires the state governmental entity to maintain a written record of each waiver and the reasons for it.

(c) Authorizes the governing body to delegate the authority to waive prohibitions under Subsection (b) that affect an officer or employee to one or more designated employees or officers. Authorizes the governing body to adopt criteria for designated employees to use to determine the kinds of relationships that do not constitute a material conflict of interests for purposes of Subsection (b). Authorizes a multimember governing body to delegate this authority only by a certain stated process.

Sec. 2262.005. ETHICS REQUIREMENTS FOR GOVERNING BODY, OFFICERS, AND EMPLOYEES: ANNUAL ETHICS COMPLIANCE STATEMENT. Requires each member of the governing body of a state governmental entity that manages or invests state funds or for which state funds are managed or invested and each officer and employee of the governmental entity required to file a financial disclosure statement under Section 2262.003 to file annually a certain compliance report. Requires the person to file the statement with a person designated by the governing body or with the state auditor. Requires the governing body of the state governmental entity to prescribe the date by which the compliance statement must be filed.

Sec. 2262.006. ETHICS REQUIREMENTS FOR CONSULTANTS, ADVISORS, MONEY MANAGERS, AND BROKERS. (a) Requires the governing body by rule to adopt standards of conduct applicable to consultants, advisors, money managers, and brokers who advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds or provide financial services to the state governmental entity and who meet certain other requirements.

(b) Requires a consultant, advisor, money manager, or broker who advises a state governmental entity or a member of the governing body of the entity in connection with the management or investment of state funds or provides financial services to the state governmental entity to disclose in writing to the administrative head of the entity and to the state auditor any relationship the consultant, advisor, money manager, or broker has with any party to a transaction with the state governmental agency, other than certain types of relationships, under certain conditions.

(c) Requires the advisor, consultant, money manager, or broker to disclose a relationship described by Subsection (b) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

(d) Requires a consultant, advisor, money manager, or broker described by Subsection (a) to file annually a statement containing certain information with the administrative head of the applicable state governmental entity and with the state auditor. Requires the state auditor by rule to prescribe the date by which the statement must be filed. Authorizes the state auditor to prescribe a uniform date or to prescribe different dates for statements filed in relation to different state governmental entities. Requires the consultant, advisor, money manager, or broker to file a new or amended statement whenever there is new information to report under Subsection (b).

Sec. 2262.007. DISCLOSURE OF CERTAIN EXPENDITURES BY CONSULTANTS, ADVISORS, MONEY MANAGERS, AND BROKERS. Requires the governing body by rule to require consultants and advisors who provide investment or funds management advice to the state governmental entity and brokers who provide financial services to the state governmental entity to file regularly with the entity a report detailing certain expenditures.

Sec. 2262.008. PUBLIC INFORMATION. Provides that Chapter 552 controls the extent to which information contained in a statement, waiver, or report filed under this chapter is subject to required public disclosure or excepted from required public disclosure. Requires the governing body to designate an employee to be the custodian of the statements, waivers, and reports for purposes of public disclosure under Chapter 552.

Sec. 2262.009. FORMS. Requires the state auditor to prescribe certain forms and waivers.

SECTION 2. Requires each state governmental entity required to adopt rules under Chapter 2262, Government Code, as added by this Act, to adopt its initial rules in time for the rules to take effect not later than January 1, 2002.

SECTION 3. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 982 as follows:

SECTION 1. Amends proposed new Chapter 2262, Title 10F, Government Code, as follows:

Sec. 2262.001. Adds to the conditions under which this chapter applies by adding entities for which state funds are managed or invested. Provides that this chapter applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury. Provides that this chapter does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Sec. 2262.002. Makes a conforming change. Adds to the list of persons for which an ethics policy as provided by this chapter is enforced.

Sec. 2262.003. Amends the heading to read as follows: ETHICS REQUIREMENTS FOR OFFICERS AND EMPLOYEES: FINANCIAL DISCLOSURE AGREEMENT. Requires certain officers of a state governmental entity to file a financial disclosure statement. Requires the statement to be filed with the state auditor. Makes conforming changes.

Sec. 2262.004. Amends the heading to read as follows: ETHICS REQUIREMENTS FOR GOVERNING BODY, OFFICERS, AND EMPLOYEES: DISCLOSURE OF CERTAIN RELATIONSHIPS. Requires a member of the governing body of or an officer of a state governmental entity who has a certain direct or indirect business or commercial relationship to disclose the relationship in writing to a person designated by the governing body and to the state auditor. Makes conforming changes. Adds the text “or who is required to file such a statement.” Adds the text “that affect an officer or employee.”

Sec. 2262.005. Adds a new Section 2262.005.

Sec. 2262.006. Redesignates original Section 2262.005 as Section 2262.006. Amends the heading to read as follows: ETHICS REQUIREMENTS FOR CONSULTANTS, ADVISORS, MONEY MANAGERS, AND BROKERS. Adds money managers and brokers to the list of those for whom the governing body is required by rule to adopt standards of conduct. Adds the text “or a member of the governing body of the state governmental entity.” Adds the text “or provide financial services to the state governmental entity.” Makes conforming and nonsubstantive changes. Requires certain relationships to be disclosed in writing to the state auditor. Adds Subsection (d).

Sec. 2262.007. Redesignates original Section 2262.006 as Section 2262.007. Amends the heading to read as follows: DISCLOSURE OF CERTAIN EXPENDITURES BY CONSULTANTS, ADVISORS, MONEY MANAGERS, AND BROKERS. Adds money managers and brokers to consultants and advisors. Replaces “more than \$50” with “more than \$250.” Makes a conforming change.

Sec. 2262.008. Redesignates original SECTION 2262.007 as SECTION 2262.008. Omits original Subsection (a). Provides that Chapter 552 controls the extent to which information contained in a statement, waiver, or report filed under this chapter is subject to required public disclosure or excepted from required public disclosure.

Sec. 2262.009. Requires the state auditor, rather than the governing body, to prescribe certain forms.

SECTIONS 2 - 3. No change.