

## **BILL ANALYSIS**

Senate Research Center

H.B. 2799  
By: Marchant (Ellis)  
Finance  
5-16-97  
Committee Report (Amended)

### **DIGEST**

In 1995, H.B. 2459 passed the 74th Legislature, and was an attempt at imposing reporting and investment requirements on entities investing public funds and those persons selling investments. During the last interim, many groups from both the investing and dealer side, have come forward with suggestions in an attempt to further refine the Public Funds Investment Act. All the interested parties met at the beginning of this legislative session in an effort to come to a consensus on changes that would enhance the current law. H.B. 2799 is the result of these meetings and consultations and would amend Chapter 2256 of the Government Code to improve its effectiveness and clarity for both investors and dealers of investments.

### **PURPOSE**

As proposed, H.B. 2799 amends current investment practices of governmental entities to reflect suggestions from both investing governmental agencies and investment dealers.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to a governing body of an investment entity under SECTION 3 (Section 2256.005(e), Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2256.002, Government Code, to redefine "book value" and "market value" and to define "qualified representative." Makes conforming changes.

SECTION 2. Amends Section 2256.004, Government Code, to provide that this chapter does not apply to a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

SECTION 3. Amends Section 2256.005, Government Code, as follows:

(a) Makes no changes.

(b) Requires investment policies to include methods to monitor the market price of investments acquired with public funds, and a retirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis. Makes a nonsubstantive change.

(c) Makes no changes.

(d) Requires the governing body of an investment entity, as an integral part of an investment policy, to adopt a separate written investment strategy for each of the funds or group of funds under its control.

(e) Requires the governing body to adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Deletes text regarding the deposit, withdrawal, transfer, or management of certain funds. Requires the person designated as investment officer, in the administration of the duties of an investment officer, to exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs. Prohibits a person, unless authorized by law, from depositing, withdrawing, transferring, or managing in any other manner the funds of the investing entity.

(g) Makes no changes.

(h) Provides that an officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) Provides that an investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity to file a statement disclosing that personal business interest, rather than requiring an investment officer of an entity who has a personal business relationship with an entity to file a statement disclosing that personal business interest. Sets forth the conditions under which an investment officer is considered to have a personal business relationship with a business organization.

(j) Makes no changes.

(k) Requires a written copy of the investment policy to be presented to any person offering to engage in an investment transaction with an investment entity, rather than requiring a written copy of the investment policy to be presented to any person seeking to sell to the entity an authorized investment. Provides that a business organization includes investment pools. Provides that nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. Requires the qualified representatives, rather than the registered principal, of the business organization offering to engage in an investment transaction with an investing entity to execute a written statement in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has taken certain action. Prohibits the investment officer of an entity from acquiring or otherwise obtaining any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required, rather than prohibiting the investment officer from buying certain securities from a person who has not delivered to the entity the instrument required by Subsection (k). Makes nonsubstantive and conforming changes.

SECTION 4. Amends Section 2256.007, Government Code, by adding Subsection (d), to set forth provisions regarding a training session for an investment officer.

SECTION 5. Amends Section 2256.008(a), Government Code, to set forth certain training requirements for the treasurer, chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government.

SECTION 6. Amends Section 2256.010, Government Code, to set forth provisions regarding a savings bank, rather than a savings and loan association.

SECTION 7. Amends Section 2256.014(a), Government Code, to set forth provisions regarding a no-load money market mutual fund. Makes conforming changes.

SECTION 8. Amends the heading to Section 2256.015, Government Code, as follows:

Sec. 2256.015. AUTHORIZED INVESTMENTS FOR STATE AGENCIES:  
GUARANTEED INVESTMENT CONTRACTS.

SECTION 9. Amends Section 2256.016, Government Code, by adding Subsections (f), (g), and (h), to set forth provisions regarding the requirements for eligibility to receive funds from and invest funds on behalf of an entity under this chapter.

SECTION 10. Amends Section 2256.017, Government Code, as follows:

Sec. 2256.017. EXISTING INVESTMENTS. Provides that an entity is not required to liquidate investments that were authorized investments at the time of purchase. Deletes text regarding a public funds investment pool.

SECTION 11. Amends Section 2256.019, Government Code, to require a public investment pool to be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or not lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

SECTION 12. Amends Section 2256.023, Government Code, by amending Subsection (b) and adding Subsection (d), to set forth provisions regarding the report. Sets forth provisions applicable if an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts.

SECTION 13. Amends Chapter 2256A, Government Code, by adding Sections 2256.025 and 2256.026, as follows:

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. Requires the governing body, of an entity subject to this subchapter or the designated investment committee of the entity, at least annually, to review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Sec. 2256.026. STATUTORY COMPLIANCE. Requires all investments made by entities to comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

SECTION 14. Amends Chapter 2256B, Government Code, by adding Section 2256.056, as follows:

Sec. 2256.056. COMPLIANCE WITH OTHER LAWS. Prohibits a local government, notwithstanding any other law, from issuing for any purpose or cause to be issued in its behalf any installment sale obligation or lease-purchase obligation having the principal amount of \$1 million or more without complying with the provisions of Article 717k-8, V.T.C.S. (Bond Approval), regardless of whether the obligation was issued individually or in a series of related transactions, or whether the obligation was issued with no recourse to the local government.

SECTION 15. Repealer: Section 2256.018, Government Code (Advisory Board of Investment Pools).

SECTION 16. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 17. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Amendment 1.

Page 8, line 17, insert new SECTION 14 regarding compliance with other laws and renumber remaining SECTIONS.