

By: Capriglione

H.B. No. 1003

A BILL TO BE ENTITLED

AN ACT

relating to investment of public funds.

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

SECTION 1. Section 2256.009(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to

investment quality by a nationally recognized investment rating firm not less than A or its equivalent; ~~and~~

(6) bonds issued, assumed, or guaranteed by the State of Israel; and

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or

(B) the National Credit Union Share Insurance Fund or its successor.

SECTION 2. Section 2256.010, Government Code, is amended by adding Subsection (c) to read as follows:

(c) An investment in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency, or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency, is an authorized investment under this subchapter.

SECTION 3. Section 2256.011, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Section 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

SECTION 4. Section 2256.014(a), Government Code, is amended to read as follows:

(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

1           (1) is registered with and regulated by the Securities  
2 and Exchange Commission;

3           (2) provides the investing entity with a prospectus  
4 and other information required by the Securities Exchange Act of  
5 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act  
6 of 1940 (15 U.S.C. Section 80a-1 et seq.); and

7           (3) complies with federal Securities and Exchange  
8 Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated  
9 under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et  
10 seq.) [~~has a dollar-weighted average stated maturity of 90 days or~~  
11 ~~fewer, and~~

12           ~~[(4) includes in its investment objectives the~~  
13 ~~maintenance of a stable net asset value of \$1 for each share]~~.

14           SECTION 5. Section 2256.014(b), Government Code, is amended  
15 to read as follows:

16           (b) In addition to a no-load money market mutual fund  
17 permitted as an authorized investment in Subsection (a), a no-load  
18 mutual fund is an authorized investment under this subchapter if  
19 the mutual fund:

20           (1) is registered with the Securities and Exchange  
21 Commission;

22           (2) has an average weighted maturity of less than two  
23 years;

24           (3) is invested exclusively in obligations approved by  
25 this subchapter;

26           (4) is continuously rated as to investment quality by  
27 at least one nationally recognized investment rating firm of not

1 less than the highest liquidity rating given to United States  
2 Treasury obligations [~~AAA or its equivalent~~]; and

3 (5) conforms to the requirements set forth in Sections  
4 2256.016(b) and (c) relating to the eligibility of investment pools  
5 to receive and invest funds of investing entities.

6 SECTION 6. Section 2256.015, Government Code, is amended by  
7 adding Subsection (d) to read as follows:

8 (d) Section 1371.059(c) applies to the execution of a  
9 guaranteed investment contract by an investing entity.

10 SECTION 7. Sections 2256.016(b), (f), and (h), Government  
11 Code, are amended to read as follows:

12 (b) To be eligible to receive funds from and invest funds on  
13 behalf of an entity under this chapter, an investment pool must  
14 furnish to the investment officer or other authorized  
15 representative of the entity an offering circular or other similar  
16 disclosure instrument that contains, at a minimum, the following  
17 information:

18 (1) the types of investments in which money is allowed  
19 to be invested;

20 (2) the maximum average dollar-weighted maturity  
21 allowed, based on the stated maturity date, of the pool;

22 (3) the maximum stated maturity date any investment  
23 security within the portfolio has;

24 (4) the objectives of the pool;

25 (5) the size of the pool;

26 (6) the names of the members of the advisory board of  
27 the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; ~~and~~

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, the governing body of the public funds investment pool shall take action as the body determines necessary to eliminate or reduce to the extent reasonably

practicable any dilution or unfair result to existing participants,  
including a sale of portfolio holdings to attempt ~~[shall be sold as~~  
~~necessary]~~ to maintain the ratio between 0.995 and 1.005. In  
addition to the requirements of its investment policy and any other  
forms of reporting, a public funds investment pool created to  
function as a money market mutual fund shall report yield to its  
investors in accordance with regulations of the federal Securities  
and Exchange Commission applicable to reporting by money market  
funds.

(h) To maintain eligibility to receive funds from and invest  
funds on behalf of an entity under this chapter, an investment pool  
must be continuously rated no lower than the highest liquidity  
rating given to United States Treasury obligations ~~[AAA or AAA-m or~~  
~~at an equivalent rating]~~ by at least one nationally recognized  
rating service.

SECTION 8. Section [2256.019](#), Government Code, is amended to  
read as follows:

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A  
public funds investment pool must be continuously rated no lower  
than the highest liquidity rating given to United States Treasury  
obligations ~~[AAA or AAA-m or at an equivalent rating]~~ by at least  
one nationally recognized rating service.

SECTION 9. Subchapter A, Chapter [2256](#), Government Code, is  
amended by adding Section 2256.0206 to read as follows:

Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING  
TRANSACTIONS. (a) In this section:

(1) "Eligible entity" means a state agency or

1 political subdivision that is an issuer as defined by Section  
2 1371.001.

3 (2) "Hedging" means acting to protect against economic  
4 loss due to price fluctuation of an investment, debt obligation, or  
5 commodity by entering into an offsetting position in a related  
6 security or by using a financial agreement or producer price  
7 agreement.

8 (b) This section prevails to the extent of any conflict  
9 between this section and an eligible entity's municipal charter, if  
10 applicable.

11 (c) The governing body of an eligible entity shall establish  
12 its policy regarding hedging transactions.

13 (d) An eligible entity may enter into hedging contracts and  
14 related security and insurance agreements related to commodities  
15 used in the general operations of an eligible entity or used in  
16 connection with the acquisition or construction of a capital  
17 project by the eligible entity. A hedging transaction must comply  
18 with the regulations of the federal Commodity Futures Trading  
19 Commission and the federal Securities and Exchange Commission.

20 (e) An eligible entity may credit any amount the entity  
21 receives under a hedging contract or agreement against expenses  
22 associated with a commodity purchase.

23 (f) An eligible entity's payment under a hedging contract or  
24 agreement may be considered:

25 (1) an operation and maintenance expense of the  
26 eligible entity;

27 (2) an acquisition expense of the eligible entity; or

1           (3) a construction expense of the eligible entity.

2           SECTION 10. The changes in law made by this Act apply only  
3 to authorized investments of public funds governed by Chapter 2256,  
4 Government Code, as amended by this Act, that are made on or after  
5 the effective date of this Act. An authorized investment of public  
6 funds made before the effective date of this Act is governed by the  
7 law in effect immediately before that date, and that law is  
8 continued in effect for that purpose.

9           SECTION 11. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2017.