

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 2011


Date

Honorable David Dewhurst
President of the Senate

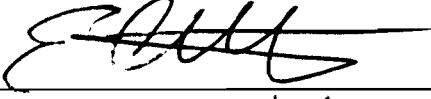
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

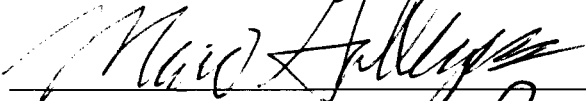
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2226 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.




Senator John Carona



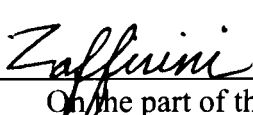
Senator Kevin Eltife



Senator Mario Gallegos, Jr.



Senator Robert Nichols




On the part of the Senate
Senator Judith Zaffirini




Representative Vicki Truitt



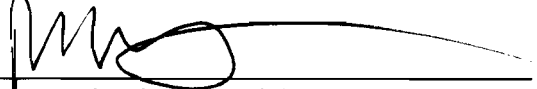
Representative Charles "Doc" Anderson



Representative Ana Hernandez Luna



Representative Ken Legler



On the part of the House
Representative Marc Veasey

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2226

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorized investments for governmental entities.

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

4 SECTION 1. Section 2256.005(b), Government Code, is amended
5 to read as follows:

6 (b) The investment policies must:

7 (1) be written;

8 (2) primarily emphasize safety of principal and
9 liquidity;

10 (3) address investment diversification, yield, and
11 maturity and the quality and capability of investment management;
12 and

13 (4) include:

14 (A) a list of the types of authorized investments
15 in which the investing entity's funds may be invested;

16 (B) the maximum allowable stated maturity of any
17 individual investment owned by the entity;

18 (C) for pooled fund groups, the maximum
19 dollar-weighted average maturity allowed based on the stated
20 maturity date for the portfolio;

21 (D) methods to monitor the market price of
22 investments acquired with public funds; ~~and~~

23 (E) a requirement for settlement of all
24 transactions, except investment pool funds and mutual funds, on a

1 delivery versus payment basis; and

2 (F) procedures to monitor rating changes in
3 investments acquired with public funds and the liquidation of such
4 investments consistent with the provisions of Section 2256.021.

5 SECTION 2. Section 2256.007(d), Government Code, is amended
6 to read as follows:

7 (d) An investment officer shall attend a training session
8 not less than once each state fiscal biennium [~~in a two-year period~~]
9 and may receive training from any independent source approved by
10 the governing body of the state agency. The investment officer
11 shall prepare a report on this subchapter and deliver the report to
12 the governing body of the state agency not later than the 180th day
13 after the last day of each regular session of the legislature.

14 SECTION 3. Sections 2256.008(a) and (b), Government Code,
15 are amended to read as follows:

16 (a) Except as provided by Subsections (b) and (e), the
17 treasurer, the chief financial officer if the treasurer is not the
18 chief financial officer, and the investment officer of a local
19 government shall:

20 (1) attend at least one training session from an
21 independent source approved by the governing body of the local
22 government or a designated investment committee advising the
23 investment officer as provided for in the investment policy of the
24 local government and containing at least 10 hours of instruction
25 relating to the treasurer's or officer's responsibilities under
26 this subchapter within 12 months after taking office or assuming
27 duties; and

1 (2) except as provided by Subsections (b) and (e),
2 attend an investment training session not less than once in a
3 two-year period that begins on the first day of that local
4 government's fiscal year and consists of the two consecutive fiscal
5 years after that date, and receive not less than 10 hours of
6 instruction relating to investment responsibilities under this
7 subchapter from an independent source approved by the governing
8 body of the local government or a designated investment committee
9 advising the investment officer as provided for in the investment
10 policy of the local government.

11 (b) An investing entity created under authority of Section
12 52(b), Article III, or Section 59, Article XVI, Texas Constitution,
13 that has contracted with an investment management firm under
14 Section 2256.003(b) and has fewer than five full-time employees or
15 an investing entity that has contracted with another investing
16 entity to invest the entity's funds may satisfy the training
17 requirement provided by Subsection (a)(2) by having an officer of
18 the governing body attend four hours of appropriate instruction in
19 a two-year period that begins on the first day of that local
20 government's fiscal year and consists of the two consecutive fiscal
21 years after that date. The treasurer or chief financial officer of
22 an investing entity created under authority of Section 52(b),
23 Article III, or Section 59, Article XVI, Texas Constitution, and
24 that has fewer than five full-time employees is not required to
25 attend training required by this section unless the person is also
26 the investment officer of the entity.

27 SECTION 4. Section 2256.009(a), Government Code, is amended

1 to read as follows:

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

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

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

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

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

19 (5) obligations of states, agencies, counties,
20 cities, and other political subdivisions of any state rated as to
21 investment quality by a nationally recognized investment rating
22 firm not less than A or its equivalent; and

23 (6) bonds issued, assumed, or guaranteed by the State
24 of Israel.

25 SECTION 5. Section 2256.010(b), Government Code, is amended
26 to read as follows:

27 (b) In addition to the authority to invest funds in

1 certificates of deposit under Subsection (a), an investment in
2 certificates of deposit made in accordance with the following
3 conditions is an authorized investment under this subchapter:

4 (1) the funds are invested by an investing entity
5 through:

6 (A) a broker that has its main office or a branch
7 office in this state and is selected from a list adopted by the
8 investing entity as required by Section 2256.025; or

9 (B) a depository institution that has its main
10 office or a branch office in this state and that is selected by the
11 investing entity;

12 (2) the broker or the depository institution selected
13 by the investing entity under Subdivision (1) arranges for the
14 deposit of the funds in certificates of deposit in one or more
15 federally insured depository institutions, wherever located, for
16 the account of the investing entity;

17 (3) the full amount of the principal and accrued
18 interest of each of the certificates of deposit is insured by the
19 United States or an instrumentality of the United States; and

20 (4) the investing entity appoints the depository
21 institution selected by the investing entity under Subdivision (1),
22 an entity described by Section 2257.041(d), or a clearing
23 broker-dealer registered with the Securities and Exchange
24 Commission and operating pursuant to Securities and Exchange
25 Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) [~~acts~~] as
26 custodian for the investing entity with respect to the certificates
27 of deposit issued for the account of the investing entity[~~, and~~

1 ~~[(5) at the same time that the funds are deposited and~~
2 ~~the certificates of deposit are issued for the account of the~~
3 ~~investing entity, the depository institution selected by the~~
4 ~~investing entity under Subdivision (1) receives an amount of~~
5 ~~deposits from customers of other federally insured depository~~
6 ~~institutions, wherever located, that is equal to or greater than~~
7 ~~the amount of the funds invested by the investing entity through the~~
8 ~~depository institution selected under Subdivision (1)].~~

9 SECTION 6. Section 2256.011(a), Government Code, is amended
10 to read as follows:

11 (a) A fully collateralized repurchase agreement is an
12 authorized investment under this subchapter if the repurchase
13 agreement:

14 (1) has a defined termination date;

15 (2) is secured by a combination of cash and
16 obligations described by Section 2256.009(a)(1); and

17 (3) requires the securities being purchased by the
18 entity or cash held by the entity to be pledged to the entity, held
19 in the entity's name, and deposited at the time the investment is
20 made with the entity or with a third party selected and approved by
21 the entity; and

22 (4) is placed through a primary government securities
23 dealer, as defined by the Federal Reserve, or a financial
24 institution doing business in this state.

25 SECTION 7. Section 2256.016, Government Code, is amended by
26 amending Subsections (a), (c), and (f) and adding Subsections (i),
27 (j), and (k) to read as follows:

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

10 (c) To maintain eligibility to receive funds from and invest
11 funds on behalf of an entity under this chapter, an investment pool
12 must furnish to the investment officer or other authorized
13 representative of the entity:

14 (1) investment transaction confirmations; and

15 (2) a monthly report that contains, at a minimum, the
16 following information:

17 (A) the types and percentage breakdown of
18 securities in which the pool is invested;

19 (B) the current average dollar-weighted
20 maturity, based on the stated maturity date, of the pool;

21 (C) the current percentage of the pool's
22 portfolio in investments that have stated maturities of more than
23 one year;

24 (D) the book value versus the market value of the
25 pool's portfolio, using amortized cost valuation;

26 (E) the size of the pool;

27 (F) the number of participants in the pool;

1 (G) the custodian bank that is safekeeping the
2 assets of the pool;

3 (H) a listing of daily transaction activity of
4 the entity participating in the pool;

5 (I) the yield and expense ratio of the pool,
6 including a statement regarding how yield is calculated;

7 (J) the portfolio managers of the pool; and

8 (K) any changes or addenda to the offering
9 circular.

10 (f) To be eligible to receive funds from and invest funds on
11 behalf of an entity under this chapter, a public funds investment
12 pool created to function as a money market mutual fund must mark its
13 portfolio to market daily, and, to the extent reasonably possible,
14 stabilize at a \$1 net asset value. If the ratio of the market value
15 of the portfolio divided by the book value of the portfolio is less
16 than 0.995 or greater than 1.005, portfolio holdings shall be sold
17 as necessary to maintain the ratio between 0.995 and 1.005. In
18 addition to the requirements of its investment policy and any other
19 forms of reporting, a public funds investment pool created to
20 function as a money market mutual fund shall report yield to its
21 investors in accordance with regulations of the federal Securities
22 and Exchange Commission applicable to reporting by money market
23 funds.

24 (i) If the investment pool operates an Internet website, the
25 information in a disclosure instrument or report described in
26 Subsections (b), (c)(2), and (f) must be posted on the website.

27 (j) To maintain eligibility to receive funds from and invest

1 funds on behalf of an entity under this chapter, an investment pool
2 must make available to the entity an annual audited financial
3 statement of the investment pool in which the entity has funds
4 invested.

5 (k) If an investment pool offers fee breakpoints based on
6 fund balances invested, the investment pool in advertising
7 investment rates must include either all levels of return based on
8 the breakpoints provided or state the lowest possible level of
9 return based on the smallest level of funds invested.

10 SECTION 8. Section 2256.019, Government Code, is amended to
11 read as follows:

12 Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A
13 public funds investment pool must be continuously rated no lower
14 than AAA or AAA-m or at an equivalent rating by at least one
15 nationally recognized rating service [~~or no lower than investment~~
16 ~~grade by at least one nationally recognized rating service with a~~
17 ~~weighted average maturity no greater than 90 days].~~

18 SECTION 9. Section 2256.023(b), Government Code, is amended
19 to read as follows:

20 (b) The report must:

21 (1) describe in detail the investment position of the
22 entity on the date of the report;

23 (2) be prepared jointly by all investment officers of
24 the entity;

25 (3) be signed by each investment officer of the
26 entity;

27 (4) contain a summary statement[, ~~prepared in~~

1 ~~compliance with generally accepted accounting principles,~~ of each
2 pooled fund group that states the:

3 (A) beginning market value for the reporting
4 period;

5 (B) ~~[additions and changes to the market value~~
6 ~~during the period,~~

7 ~~[(C)]~~ ending market value for the period; and

8 (C) ~~[(D)]~~ fully accrued interest for the
9 reporting period;

10 (5) state the book value and market value of each
11 separately invested asset at the ~~[beginning and]~~ end of the
12 reporting period by the type of asset and fund type invested;

13 (6) state the maturity date of each separately
14 invested asset that has a maturity date;

15 (7) state the account or fund or pooled group fund in
16 the state agency or local government for which each individual
17 investment was acquired; and

18 (8) state the compliance of the investment portfolio
19 of the state agency or local government as it relates to:

20 (A) the investment strategy expressed in the
21 agency's or local government's investment policy; and

22 (B) relevant provisions of this chapter.

23 SECTION 10. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2011.

House Bill 2226
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
No equivalent provision.	SECTION __. Sec. 12.027, Agriculture Code, is amended by adding Subsection (d). [FA2]	Same as House version.
SECTION 1. Section 2256.005(b), Government Code, is amended.	SECTION 1. Same as House version.	SECTION 1. Same as House version.
SECTION 2. Section 2256.007(d), Government Code, is amended.	SECTION 2. Same as House version.	SECTION 2. Same as House version.
SECTION 3. Sections 2256.008(a) and (b), Government Code, are amended.	SECTION 3. Same as House version.	SECTION 3. Same as House version.
SECTION 4. Section 2256.009(a), Government Code, is amended.	SECTION 4. Same as House version.	SECTION 4. Same as House version.
SECTION 5. Section 2256.010(b), Government Code, is amended. Among other provisions, establishes as a condition for an investment in certificates of deposit to be an authorized investment under this subchapter, that the investing entity appoint the deposit institution selected by the investing entity under Subdivision (1) or an entity described by Section 2257.041(d) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.	SECTION 5. Same as House version except adds as an alternative to such condition the investing entity's appointment of <i>a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3)</i> as custodian. [FA1(1),(2)]	SECTION 5. Same as Senate version.
No equivalent provision.	SECTION __. Section 2256.011(a), Government Code, is amended to read as follows: (a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement: (1) has a defined termination date;	SECTION 6. Same as Senate version.

House Bill 2226
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and
(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and
(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state. [FA1(3)]

SECTION 6. Section 2256.016, Government Code, is amended by amending Subsections (a), (c), and (f) and adding Subsections (i), (j), and (k).

SECTION 6. Same as House version.

SECTION 7. Same as House version.

SECTION 7. Section 2256.019, Government Code, is amended.

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 8. Section 2256.023(b), Government Code, is amended.

SECTION 8. Same as House version.

SECTION 9. Same as House version.

SECTION 9. Effective date.

SECTION 9. Same as House version.

SECTION 10. Same as House version.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 27, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2226 by Truitt (Relating to authorized investments for governmental entities.),
Conference Committee Report

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

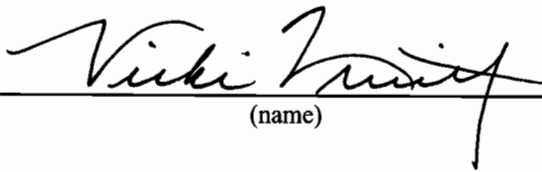
Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 312 Securities Board, 781 Higher Education Coordinating Board

LBB Staff: JOB, SD, KKR, AG, JI, KY, RAN

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 2226 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

27 May 11

(date)