

## **BILL ANALYSIS**

H.B. 483  
By: Capriglione  
Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that demand for the storage of precious metals is high and includes public institutions, private businesses, and individual investors alike, but there are concerns that precious metals owned by the state are currently stored in other states. These parties assert that a state depository would remove much of the uncertainty and safety concerns associated with the storage of precious metals elsewhere by providing dedicated storage of precious metal holdings for state agencies and investment organizations. Interested parties contend that establishment of a Texas bullion depository would allow the state, state agencies, and private individuals to store precious metals utilizing a secure Texas-based depository to reduce reliance on out-of-state facilities and to insulate their assets from unstable market forces. H.B. 483 seeks to establish a Texas bullion depository.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 483 amends the Government Code to establish the Texas Bullion Depository as a state agency in the office of the comptroller of public accounts to serve as the custodian, guardian, and administrator of certain bullion and specie, as defined by the bill, that may be transferred to or otherwise acquired by the state or an agency, a political subdivision, or another instrumentality of the state. The bill requires the administrator of the depository, who is to be appointed by the comptroller with the advice and consent of the governor, lieutenant governor, and senate, to administer, supervise, and direct the operations and affairs of the depository and depository agents and to liaise with the comptroller and other divisions of the comptroller's office to ensure that each transaction with the depository, as specified by the bill, is planned, administered, and executed in a manner to achieve the depository's purposes. The bill authorizes the administrator to appoint a deputy administrator or other subordinate officer as necessary and appropriate to the efficient administration of the depository, subject to comptroller approval.

H.B. 483 establishes that deposits to the depository and certain related assets are not available for legislative appropriation, but are subject to redemption, liquidation, or transfer exclusively to discharge an obligation of the depository to account holders or related intermediaries. The bill requires revenue the depository realizes from payments received in the course of depository operations to be deposited to the general revenue fund.

H.B. 483 authorizes the depository to receive a deposit of bullion or specie from or on behalf of a person acting in a fiduciary capacity, in accordance with rules adopted by the comptroller as appropriate to ensure compliance with law and to protect the interests of the depository; depository account holders; the state, the state's agencies, political subdivisions, and instrumentalities; and the public at large. The bill sets out provisions governing deposits to the depository, delivery of any precious metal held by or on behalf of the depository on the order of an account holder, and the transfer of any portion of an account holder's account balance to another person, including provisions providing for the adoption of certain comptroller rules relating to such transactions. The bill requires a depositor, in order to establish a depository account, to contract with the depository for the account and sets out requirements for the contract. The bill sets conditions for the accrual of a cause of action for denial of deposit liability on a depository account contract without a maturity date.

H.B. 483 authorizes the comptroller by rule to establish fees, service charges, and penalties to be charged to an account holder for a service or activity regarding a depository account. The bill authorizes the depository, unless it acknowledges in writing a pledge of an account, to treat the account holder of record as the account owner for all purposes and without regard to a notice to the contrary. The bill establishes conditions for transferring a depository account on the books of the depository. The bill establishes that a depository account is not interest-bearing and sets out provisions relating to the lien that the depository has on each account owned by an account holder.

H.B. 483 identifies the persons authorized to invest the person's money in a depository account by purchasing precious metals and depositing the precious metals with the depository or a depository agent and makes an investment by an insurance company in a depository account eligible to be applied as a credit against certain premium taxes in accordance with rules adopted by the comptroller after consultation with the commissioner of insurance. The bill authorizes an investment by a school district in a depository account to be made instead of an investment of bond proceeds in certain obligations and authorizes the use of the depository by a district instead of a school depository bank. The bill establishes that applicable Estates Code provisions regarding nonprobate assets, community property with right of survivorship, and multiple-party accounts govern a depository account.

H.B. 483 authorizes the pledge and transfer of a jointly held depository account to the depository or a third party by a person on whose signature precious metals may be withdrawn from the account, unless a term of the account provides otherwise, and sets out provisions concerning depository accounts held by a fiduciary or in trust. The bill requires the depository to recognize the authority of an attorney-in-fact authorized in writing by a depository account holder to manage or withdraw precious metals from the account holder's depository account until the depository receives notice of the revocation of that authority.

H.B. 483 requires the depository to enter into transactions and relationships with other persons as the comptroller determines to be prudent and suitable to facilitate the depository's operations and further the depository's purposes. The bill prohibits the depository from taking certain actions and voids certain confiscations, requisitions, seizures, and other actions effected by, on behalf of, or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of the state. The bill requires the comptroller to adopt certain rules with regard to official exchange rates and to the facilitation of accounting and reporting taxable gains and losses arising out of depository transactions. The bill requires the comptroller to submit to the governor and the legislature an annual report on the status, condition, operations, and prospects for the depository and depository participation.

H.B. 483 requires the depository to use private, independently managed firms and institutions licensed as depository agents as intermediaries to conduct retail transactions in bullion and specie on behalf of the depository with current and prospective depository account holders and

establishes minimum experience requirements for the agents. The bill authorizes the comptroller to adopt specified rules relating to financial prerequisites for the agents and requires the comptroller to adopt specified rules relating to electronic information-sharing requirements applicable to depository agents. The bill requires a depository agent to submit periodic reports of all depository transactions and sets out requirements for the reports.

H.B. 483 amends the Finance Code to extend the applicability of certain Money Services Act provisions to a depository agent and depository agent services. The bill sets out provisions providing for the licensure of a depository agent, including provisions relating to license holder qualifications; for the application for a license and the accompanying fee, statements, and security; for investigation and action on the application by the banking commissioner of Texas; and for the issuance of a temporary license. The bill makes a depository agent license holder liable for the delivery to or for the account of the depository or each depositor, as applicable, of all bullion, specie, and money payable or deliverable in connection with the transactions in which the license holder engages on behalf of the depository. The bill requires a license holder to hold in trust all assets received in the ordinary course of its business until the time the delivery obligation is discharged and sets out provisions concerning such a trust. The bill establishes certain disclosure requirements applicable to a depository agent license holder and requires a license holder to prepare certain written reports and financial statements.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.