

BILL ANALYSIS

S.B. 253
By: Taylor, Van
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that state law prohibiting certain state investment in companies engaged in business with Sudan and Iran needs to be revised and reorganized and should apply to companies that engage in business with a foreign terrorist organization. S.B. 253 seeks to provide for such changes in state law to ensure public funds are not used to aid such governments and terrorist organizations.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 253 amends the Government Code to revise and reorganize provisions regarding the prohibitions on the investment of public money in certain investments by an investing entity by consolidating statutory provisions relating to prohibited investments in Sudan and prohibited investments in Iran, transferring the consolidated provisions from Government Code provisions regarding provisions generally applicable to public retirement systems to Government Code provisions relating to state and local contracts and fund management, and expanding the applicability of the consolidated and revised provisions to include investments with an organization designated as a foreign terrorist organization by the U.S. secretary of state. The bill replaces references to a "state governmental entity" with references to an "investing entity" and defines that term, among other terms, as an entity subject to the Public Funds Investment Act, the Employees Retirement System of Texas (ERS), the Teacher Retirement System of Texas (TRS), and the comptroller of public accounts with respect to the comptroller's investment of state funds.

S.B. 253 repeals provisions prohibiting investments in Iran by a state governmental entity but retains the provision authorizing certain entities to rely on a company's response to a notice or communication made in regard to an investment in Iran without conducting any further investigation, research, or inquiry and extends that authorization for such reliance to investments in Sudan and investments with a designated foreign terrorist organization. The bill transfers all powers, duties, and functions of the State Pension Review Board under those repealed provisions to the comptroller of public accounts and provides for the transfer of the following that relate to a transferred power, duty, or function: all obligations and contracts; all property and records in the custody of the State Pension Review Board; all funds appropriated by the legislature and other money; all complaints, investigations, or contested cases that are pending before the State

Pension Review Board, without change in status; and all necessary personnel. The bill establishes that a rule, policy, or form adopted by or on behalf of the board that relates to a transferred power, duty, or function becomes a rule, policy, or form of the comptroller on the transfer and remains in effect until altered by the comptroller or unless it conflicts with a rule, policy, or form of the comptroller. The bill establishes that an action brought or proceeding commenced before the date of the transfer, including a contested case or a remand of an action or proceeding by a reviewing court, is governed by the laws and rules applicable to the action or proceeding before the transfer.

S.B. 253 exempts ERS and TRS from the bill's provisions regarding such prohibited investments if the entity determines that the requirement would be inconsistent with the entity's fiduciary responsibility with respect to the investment of entity assets or other duties imposed by law relating to the investment of entity assets, including the duty of care established under the Texas Constitution. The bill establishes that the bill's provisions prevail to the extent of a conflict between the bill's provisions relating to prohibited investments and statutory provisions relating to the state treasury operations of the comptroller or the Public Funds Investment Act.

S.B. 253 establishes that a company engages in scrutinized business operations with a designated foreign terrorist organization if the company has business operations that involve a contract with or providing supplies or services to a designated foreign terrorist organization, a company in which a designated foreign terrorist organization has any direct or indirect equity share, a consortium or project commissioned by a designated foreign terrorist organization, or a company involved in a consortium or project commissioned by a designated foreign terrorist organization or if the company supplies terroristic equipment to a designated foreign terrorist organization. The bill defines "terroristic equipment" as weapons, arms, military supplies, and equipment that readily may be used for terroristic purposes or activities.

S.B. 253 requires the comptroller to prepare and maintain a list of designated foreign terrorist organizations and to maintain the list by updating the list as necessary to reflect changes in the list of organizations designated as foreign terrorist organizations by the U.S. secretary of state. The bill requires the comptroller, not later than the 30th day after the date the comptroller first prepares or updates the list of the designated foreign terrorist organizations, to file the list with the presiding officer of each house of the legislature and the attorney general and to post the list on the comptroller's website.

S.B. 253 requires the comptroller's list of scrutinized companies to be categorized according to companies that engage in scrutinized business operations in Sudan, in Iran, or with a designated foreign terrorist organization. The bill requires the comptroller to provide each prepared or updated list of scrutinized companies to each investing entity and to post each list on the comptroller's website. The bill establishes that, for purposes of the prohibitions and duties relating to prohibited investments of public money by an investing entity, the date the comptroller posts a list of scrutinized companies on the comptroller's website is considered the date the comptroller receives notice of the list. The bill requires the comptroller, not later than September 1, 2017, to prepare the initial list of designated foreign terrorist organizations and, not later than October 1, 2017, to prepare an updated list of scrutinized companies, to provide the list to each investing entity, and to post the list on the comptroller's website.

S.B. 253 clarifies that an investing entity is included among the entities and individuals to which a consolidated and revised provision requiring the indemnification of specified entities and individuals in a cause of action relating to a prohibited investment apply. The bill changes the expiration date for consolidated and revised provisions relating to prohibited investments, as regards Iran and Sudan, from expiration on a date contingent on certain United States actions to expiration on September 1, 2037, and applies that same expiration date to provisions relating to prohibited investments in designated foreign terrorist organizations.

S.B. 253 repeals Chapter 807, Government Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.