

BILL ANALYSIS

C.S.S.B. 608
By: Watson
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The School Land Board was established in 1939 by the 46th Legislature to manage the sale and mineral leasing of more than 13 million acres of permanent school fund land, along with the State Board of Education, which generates revenue the board uses to purchase additional real estate and make investments that ultimately help fund public education. Since the last Sunset review of the School Land Board in 1984, the board's investment authority has greatly expanded. Although the current Sunset review found no significant problems within the investment program, the Sunset Commission determined the board needs to implement additional best practices to better guide its investment process, strengthen transparency and oversight of its investments, and improve coordination with the State Board of Education. Additionally, the commission found the work of the School Land Board in overseeing permanent school fund land and investments is hampered by the board's small size, which prevents the board from forming committees or even having informal discussion between board members. On the basis of the Sunset review, C.S.S.B. 608 seeks to continue the board for 12 years and enact recommendations to address these and other issues.

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

C.S.S.B. 608 amends the Natural Resources Code to postpone the date on which the School Land Board is abolished, unless continued in existence as provided by the Texas Sunset Act, from September 1, 2019, to September 1, 2031. The bill adds as board members three additional Texas citizens appointed by the governor with the advice and consent of the senate and removes as a board member a Texas citizen appointed by the attorney general with the advice and consent of the senate. The bill requires two citizens appointed by the governor to be selected from lists of nominees submitted by the State Board of Education (SBOE), requires the SBOE to submit to the governor a list of six nominees for a vacant position, and authorizes the governor to request that the SBOE submit a second list of six nominees if the governor does not choose to appoint a nominee from the first list. The bill requires at least one of the citizens appointed by the governor to be a resident of a county with a population of less than 200,000 and requires the governor and the SBOE to collaborate to ensure that the membership of the board complies with such requirement. These provisions of the bill expressly do not affect the eligibility of a board member serving immediately before the bill's effective date to continue to serve on the board for the term to which the member was appointed.

C.S.S.B. 608 requires the board and the SBOE to hold an annual joint public meeting to discuss the allocation of the assets of the permanent school fund and the investment of the money in the fund. The bill requires each member of the board and each member of the SBOE to attend the meeting unless the member's absence is excused by majority vote of the board or the SBOE, as applicable. If the SBOE delegates powers and duties relating to the investment of the permanent school fund to a committee of the SBOE, only a majority of the committee members must attend the meeting. The bill requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the commissioner and staff of the General Land Office (GLO).

C.S.S.B. 608 sets out provisions relating to required training for board members, including training on the board's investment programs and strategies and the permanent school fund, requires the GLO commissioner to create and distribute a related training manual to each appointed board member, and requires each such member to sign and submit to the commissioner a statement acknowledging that the member received and has reviewed the manual. The bill's provisions relating to board member training apply to a board member appointed before, on, or after the bill's effective date, and the bill prohibits a board member from voting, deliberating, or being counted as a member in attendance at a board meeting held on or after December 1, 2019, until the member completes the training.

C.S.S.B. 608 requires the board to maintain a system to promptly and efficiently act on complaints filed with the board and sets out related requirements. The bill replaces the cap on the market value of the investments in real estate under statutory provisions governing the use of the real estate special fund account on January 1 of each even-numbered year that is set at an amount equal to 15 percent of the market value of the permanent school fund on that date with a cap on the market value of the investments made under those statutory provisions for the following purposes that applies on January 1 of each even-numbered year and is set at an amount equal to 15 percent of the market value of the assets held by the board and the SBOE as part of the permanent school fund:

- the acquisition of interests in real estate; and
- the acquisition, sale, lease, trade, improvement, maintenance, protection, or use of land, mineral and royalty interests, or real estate investments, an investment or interest in public infrastructure, or other interests.

C.S.S.B. 608 requires the board's biennial report to the legislature that assesses the direct and indirect economic impact of the investment of funds designated for deposit in the real estate special fund account to include the amounts of all fees or other compensation paid by the board to investment managers, consultants, or advisors appointed or organizations contracted with for the investment of such funds or assistance in investing such funds. The bill removes the requirement that the board submit to the legislature a biennial report that assesses the return and economic impact of the investments reported to the legislature before the preceding regular legislative session.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 608 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute increases by two the number of School Land Board members to be appointed by

the governor with the advice and consent of the senate for a total of four members appointed by the governor who are Texas citizens.

The substitute does not increase the number of board members to be appointed by the attorney general with the advice and consent of the senate and instead removes altogether the existing board member so appointed and makes a conforming change in provisions regarding appointed citizens required to be selected from lists of nominees submitted by the SBOE.

The substitute includes provisions requiring at least one of the citizens appointed by the governor to be a resident of a county with a population of less than 200,000 and requiring the governor and the SBOE to collaborate to ensure that the membership of the board complies with such requirement.

The substitute does not include a provision requiring the appointment of board members selected from lists of nominees submitted by the SBOE not later than September 1, 2020.

The substitute includes a provision establishing that the bill's provisions relating to board membership do not affect the eligibility of a board member serving immediately before the bill's effective date to continue to serve on the board for the term to which the member was appointed.

The substitute includes a provision requiring the governor and the SBOE, as soon as possible after the bill's effective date, to collaborate to appoint board members as necessary to ensure that the composition of the board complies with applicable provisions.