

SUBJECT: Repealing Texas Growth Fund South African investment disclosure

COMMITTEE: Pensions and Investments — favorable, without amendment

VOTE: 6 ayes — Telford, Woolley, Goolsby, Rangel, Serna, Williams

0 nays

3 absent — Berlanga, Sadler, Tillery

SENATE VOTE: On final passage, April 14 — 30-0

WITNESSES: None

BACKGROUND : Art. 16, sec. 70, of the Texas Constitution, adopted in 1988, created the Texas Growth Fund, a trust fund that can invest in private companies with major business interests in Texas. The fund can make private equity investments for the Permanent University Fund (PUF), Permanent School Fund (PSF) and state-created pension funds, including the Teacher Retirement System (TRS) and the Employees Retirement System (ERS).

The Texas Growth Fund is a type of closed-in mutual fund to which the participants commit a certain amount of money, which is invested as appropriate investment opportunities become available. The growth fund has made two rounds of investments totalling \$127 million: in 1991, the PUF and TRS committed \$52 million, and in 1995, the PUF, TRS and San Antonio Fire and Police Pension Fund committed \$75 million.

The PUF, PSF, ERS and TRS have a combined market value of \$77.6 billion as of August 31, 1996. These funds may invest up to 1 percent of their fund value in the Texas Growth Fund. Up to 10 percent of the growth fund can be invested in “venture capital,” stocks and bonds with potential for substantial investment returns, such as business with potential for rapid growth and applied research leading to formation of new business.

The growth fund is governed by a nine-member board composed of one member each appointed by the governing boards of the University of Texas System, the Texas A&M University System, the Teacher Retirement System

and the Employees Retirement System, one member appointed by the State Board of Education and four public members with investment expertise appointed by the governor for six-year terms.

Art. 16, sec. 70(r) prohibits Texas Growth Fund investments in businesses unless they submit an affidavit disclosing whether they have any direct financial investment in or with South Africa or Namibia.

DIGEST: SJR 39 would amend the Texas Constitution by repealing Art. 16, sec. 70(r), which prohibits the Texas Growth Fund from investing in a business that does not disclose whether it has any direct financial investments in or with South Africa or Namibia.

The proposal would be presented to voters at an election on November 4, 1997. The ballot proposal would read: "The constitutional amendment allowing the Texas growth fund to continue to invest in businesses without requiring those businesses to disclose investments in South Africa or Namibia."

SUPPORTERS SAY: The requirement that companies disclose whether they have direct investments in South Africa or Namibia in order to qualify for Texas Growth Fund investments is no longer necessary or useful. South Africa's white minority government has been replaced by the democratically elected government of President Nelson Mandela, and Namibia is an independent nation no longer under South African control. The need to screen businesses for ties to a discriminatory regime has vanished.

Disclosure of ties to South Africa or Namibia was intended to permit the fund board to select among otherwise equal investments to address concerns relating to supporting the apartheid system of racial separation in South Africa. These concerns have become irrelevant with the dismantling of apartheid and majority rule in South Africa and Namibia, and the additional disclosure is now only an unnecessary administrative burden on companies in which the growth fund invests.

Although the identical amendment was defeated at the polls on November 9, 1995, by a vote of 45.6 percent in favor and 54.4 percent against the measure, voters may have been confused by the ballot language, which read

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"The constitutional amendment allowing investment of money from the Texas growth fund in a business without the business's disclosure of its investments in or with South Africa or Namibia." The ballot language of SJR 39 is more clearly written and would help voters understand the intent of the amendment.

OPPONENTS
SAY: No apparent opposition.

NOTES: HB 138 by Woolley, which would establish a new Texas Growth Fund II, has passed both houses and been sent to the governor.