

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1611
By: Fraser
Finance
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Committee Report (Substituted)

DIGEST AND PURPOSE

The Texas Treasury Safekeeping Trust Company (trust company) is a special-purpose trust company currently managing accounts outside the state treasury for 22 agencies and managing about \$7 billion in short term cash deposits of state dollars. The purpose of the trust company is to provide a means for the comptroller to obtain direct access to services provided by the Federal Reserve System and to enable the comptroller to manage, disburse, transfer, safe-keep, and invest funds and securities more economically and efficiently. C.S.S.B. 1611 provides for the structure of the Texas Treasury Safekeeping Trust Company and for the creation of an investment advisory committee to advise the comptroller with respect to the trust company.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 404.101, Government Code, to define “advisory board” and “participant.”

SECTION 2. Amends Section 404.103, Government Code, by amending Subsection (b) and adding Subsections (e), (f) and (g), as follows

(b) Makes a nonsubstantive change.

(e) Authorizes the trust company to hire employees, fix their compensation and prescribe their duties, or to contract with the comptroller's office for staff support.

(f) Requires the trust company to develop a fee schedule in the amount necessary to recover costs of service and to retain adequate reserves to support the operations of the trust company.

(g) Provides that the trust company is exempt from other state laws regulating or limiting state purchasing or a purchasing decision under certain conditions. Sets forth guidelines regarding the purchase of goods and services.

SECTION 3. Amends Section 404.104(c), Government Code, to authorize the trust company to contract with the comptroller's office, a certified public accountant, or the state auditor to conduct an independent audit of the operations of the trust company. Deletes language requiring the state auditor to conduct an audit. Deletes text regarding Chapter 321.

SECTION 4. Amends Section 404.105, Government Code, as follows:

Sec. 404.105. CAPITAL OR RESERVE. Requires the trust company to hold, rather than

have, capital stock and reserve balances outside the treasury in an amount required by applicable regulatory bodies for eligibility for federal reserve services, for participation in a depository trust company, and as necessary to achieve its purposes under Section 404.103. Provides that the stock of the trust company is an authorized investment for state funds and requires the stock to be held by the comptroller. Prohibits the amount of stock from being more than \$1 million.

SECTION 5. Amends Section 404.106, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires any net earnings of the trust company attributable to capital stock or investments of capital stock to be credited annually to the account of the treasury and to be allocated annually to the funds held and managed by the comptroller in accordance with Section 404.071(a).

(d) Authorizes the trust company to hold reserve balances or securities as required by the Federal Reserve System or as required for participation in a depository trust company.

SECTION 6. Amends Section 404.107, Government Code, to require certain entities that are authorized or required to deposit money and securities with the trust company to pay the fees established on the trust company's fee schedule.

SECTION 7. Amends Chapter 404G, Government Code, by adding Sections 404.108 through 404.115, as follows:

Sec. 404.108. TRUST COMPANY INVESTMENT ADVISORY BOARD. Authorizes the comptroller to appoint an investment advisory board for certain purposes. Requires the advisory board to provide the comptroller guidance on the investment philosophy that should be pursued in managing the assets under the trust company's control. Provides that the advisory board serves in an advisory capacity only and is not a fiduciary with respect to the assets held by the trust company. Sets forth guidelines concerning the investment advisory board.

Sec. 404.109. RESTRICTIONS ON ADVISORY BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. Provides that a person is not eligible for appointment to the advisory board if the person or the person's spouse meets certain requirements.

Sec. 404.110. ADVISORY BOARD MEMBER TRAINING. Requires a member, before a member of the advisory board is authorized assume the member's duties, to complete at least one course of the training program established under this section. Requires a training program established under this section to provide certain information.

Sec. 404.111. COMPENSATION; EXPENSES. Provides that members of the advisory board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the advisory board or performing other official duties authorized by the comptroller.

Sec. 404.112. MEETINGS. Authorizes the advisory board to meet as often as necessary, but requires it to meet at least twice a year. Provides that advisory board meetings are subject to Chapter 551 (Open Meetings), Government Code.

Sec. 404.113. INVESTMENT MANAGEMENT. Authorizes the comptroller to delegate investment authority and contract with private professional investment managers to manage or assist in managing assets held by the trust company. Authorizes the comptroller to delegate a

power or duty relating to the investment of assets held by the trust company to an employee or agent of the comptroller, including professional investment managers.

Sec. 404.114. PERSONNEL. (a) Authorizes the comptroller to appoint a person to serve as chief executive officer in managing the trust company and carrying out the policies of the trust company. Provides that the chief executive officer and employees of the trust company serve at the will of the comptroller.

(b) Authorizes the comptroller to delegate any of the comptroller's duties to the chief executive officer and trust company employees.

(c) Requires the chief executive officer or chief executive officer's designee to develop a career ladder program and a system of compensation necessary to retain qualified staff.

(d) Requires the chief executive officer or chief executive officer's designee to develop a system of annual performance evaluations and requires merit pay for trust company employees to be based on the system established under this subsection.

(e) Requires the chief executive officer or chief executive officer's designee to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, religion, age, or national origin.

(f) Requires the chief executive officer to appoint an internal auditor for the trust company. Requires the appointment of the internal auditor to be approved by the comptroller. Authorizes the comptroller to require the internal auditor to submit certain reports directly to the comptroller.

(g) Provides that, except as provided by this section and Subsection 404.103(e), trust company employees hired under this subchapter are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations, Chapter 104 (State Liability for Conduct of Public Servants), Civil Practice and Remedies Code, and Chapter 501 (Workers' Compensation Insurance Coverage for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech Univeristy), Labor Code.

Sec. 404.115. LIABILITY INSURANCE FOR CERTAIN BOARD MEMBERS, OFFICIALS, AND STAFF. Authorizes the trust company to purchase or otherwise acquire insurance to protect members of the advisory board and the trust company staff. Authorizes insurance purchased or acquired by a state agency under this section to perform certain functions. Provides that this section does not authorize the purchase or acquisition of insurance to protect against liability not described in this section.

SECTION 8. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 1611 as follows

SECTION 1. Makes a nonsubstantive change.

SECTION 2. Makes nonsubstantive changes. Replaces a reference to "Section 2155.0074," Government Code, with a reference to "Section 2155.074," Government Code.

SECTION 3. No change.

SECTION 4. No change.

SECTION 5. No change.

SECTION 6. No change.

SECTION 7. Original proposed SECTIONS 8 through 14 are omitted and the text of those SECTIONS adding Sections 404.109 through 404.115 is transferred to SECTION 7. Amends the text of Sections 404.108 through 404.115 as follows:

Sec. 404.108. Replaces “Trust Company” with “trust company.” Makes nonsubstantive changes. Replaces “speaker of the house” with “speaker of the house of representatives.” Replaces “handicap” with “disability.”

Sec. 404.109. No changes in text.

Sec. 404.110. Replaces “once” with “one.”

Sec. 404.111. No changes in text.

Sec. 404.112. No changes in text.

Sec. 404.113. No changes in text.

Sec. 404.114. Replaces “handicap” with “disability.” Replaces “corporation” with “trust company.” Makes a nonsubstantive change.

Sec. 404.115. Replaces “that liability” with “such liability.”

SECTION 8. Redesignates text from original proposed SECTION 15 to SECTION 8. No changes in text.