

BILL ANALYSIS

Senate Research Center

S.B. 121
By: Duncan
State Affairs
3/31/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Numerous public pension plans, including the Teacher Retirement System of Texas (TRS) and the Employees Retirement System of Texas (ERS), and state universities, through private investment companies such as The University of Texas Investment Management Company, invest millions of dollars of public money in the private equity marketplace. The investment of certain public pension funds and permanent education funds is authorized pursuant to a state constitutional amendment approved in 1988. These private investments are often made via venture capital funds. The return on the taxpayer monies invested in the private equity marketplace has, in the past few years, been greater than the return on investments in traditional funds, such as publicly-traded stocks. Information concerning the nature of investments is a public concern because it directly involves public money and public pension plans and state university funds.

A request for public information was made concerning the Texas Growth Fund (TGF). This particular fund invests funds contributed to it by its grantors, TRS and ERS. In response to the public information request, the attorney general of Texas, in July 2004, issued an open records ruling providing that certain information requested was subject to public disclosure. In August 2004, TGF filed an original petition seeking certain legal relief including, among other things, a declaratory judgment that the information not be made public.

As proposed, S.B. 121 requires governmental bodies to disclose information relating to investments of public monies, including the name of any fund which the governmental entity is invested in, the year the fund was created, the dollar amount invested in the fund, and the return on the investment. The bill also requires the disclosure of board members' possible conflicts of interest and the disclosure of the fee expenses assessed.

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 Subtitle A, Title 5, Texas Government Code, by adding Section 552.030, as follows:

Sec. 552.030. RIGHT OF ACCESS TO INVESTMENT INFORMATION. (a) Provides that under the fundamental philosophy of American government in Section 552.001(a), it is the policy of this state that investments of the government are investments of and for the people and the people are entitled to information regarding those investments. Requires the provisions of this section to be liberally construed to implement this policy.

(b) Provides that certain categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter.

(c) Provides that the list in Subsection (b) of this section does not affect the confidentiality of any type of investment information not listed therein.

SECTION 2. Effective date: upon passage or September 1, 2005.