

BILL ANALYSIS

Senate Research Center
83R5574 CJC-F

S.B. 581
By: Carona
Business & Commerce
3/6/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is a strong public interest in the safety and management of public funds. For this reason, Texas and a number of other states have instituted laws to safeguard public funds. Under current Texas law, a depository institution is required to pledge securities to collateralize public funds deposited in excess of the per-account Federal Deposit Insurance Corporation deposit insurance limit, which currently stands at \$250,000. Once a depository institution pledges its collateral to a state public entity, the law requires that an approved custodian step in to hold and “safe keep” the collateral on behalf of the public entity.

In recent years, many custodian banks have moved away from a paper process and adopted a web-driven electronic system, in which a member depository institution could process custodial requests via a secure online network. In doing so, a depository institution would instantaneously receive trust receipts issued to both the depository institution and the public entity. Given that the secure network is accessible only to the depository institution, the depository institution prints the trust receipts and forwards them to the corresponding public entity.

While this process is efficient for both the depository institution and the public entity, it is not consistent with the procedures for the issuance and delivery of trust receipts mandated by the Texas Public Funds Collateral Act, which protects and governs public fund deposits.

S.B. 581 seeks to align custodial obligations pertaining to the issuance and delivery of trust receipts with generally accepted business practices. S.B. 581 allows the custodian to deliver the trust receipt not only to the public entity, but also to the depository institution. Additionally, the bill provides that upon a public entity’s request, the custodian must provide a current list of all investment securities pledged to the public entity.

As proposed, S.B. 581 amends current law relating to procedures for securing the deposit of public funds.

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 2257.045, Government Code, to require a custodian, on receipt of an investment security, to immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity; and promptly issue and deliver a trust receipt for the pledged security to the appropriate public entity officer or the public entity's depository.

SECTION 2. Amends Section 2257.046, Government Code, by adding Subsection (d), to require the public entity's custodian, at the request of the public entity, to provide a list of all investment securities pledged to the public entity.

SECTION 3. Amends Section 116.051, Local Government Code, to authorize the depository or subdepository to secure certain county funds, at the option of the commissioners court, by a letter of credit issued by a federal home loan bank, or other certain methods.

SECTION 4. Effective date: upon passage or September 1, 2013.