

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1232  
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Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1232 would combine the Permanent School Fund into one single fund run by a new special-purpose government corporation called the Texas Permanent School Fund Corporation (TPSFCO). This idea was based off of how the University of Texas/Texas A&M Investment Management Company (UTIMCO) started managing the Permanent University Fund in 1996.

TPSFCO will be housed under the SBOE but will be its own entity with its board made up of the General Land Office (GLO) Commissioner and one member of his choosing with investment expertise, five SBOE members, and two Governor appointees with asset management experience. This structure was designed to maintain the constitutional requirements of both the SBOE and GLO.

With the PSF being unified under TPSFCO, we expect to see over \$100 million each year being added to the PSF due to the diversified portfolio. With maximized investment returns and reduced investment risks under a full merger, TPSFCO will be set up to be successful for generations of schoolchildren to come.

As proposed, S.B. 1232 amends current law relating to the management and investment of the permanent school fund, including the duties of the School Land Board and the creation of the Permanent School Fund Investment Management Organization.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 3 (Section 43.005, Education Code) of this bill.

Rulemaking authority previously granted to the School Land Board is modified in SECTION 16 (Section 51.413, Natural Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 43.001(c), Education Code, to define "organization" and to redefine "scholastic population" for Chapter 43 (Permanent School Fund and Available School Fund).

SECTION 2. Amends Chapter 43, Education Code, by adding Section 43.0021, as follows:

Sec. 43.0021. PERMANENT SCHOOL FUND INVESTMENT MANAGEMENT ORGANIZATION. (a) Establishes the Permanent School Fund Investment Management Organization (organization) to perform duties as required by this chapter, including management of the permanent school fund (PSF). Provides that the organization is composed of seven members appointed as follows:

- (1) three members appointed by the chair of the State Board of Education (SBOE);
- (2) one member appointed by the commissioner of the General Land Office (GLO); and

(3) three members appointed by the governor from a list of individuals nominated jointly by SBOE and GLO who have substantial background and expertise in investments and asset management.

(b) Requires at least one member appointed under Subsection (a)(3) to have substantial background and expertise in investment asset allocation.

(c) Provides that members of the organization serve staggered six-year terms, with the terms of two or three members expiring on January 1 of each odd-numbered year.

(c-1) Requires the initial members appointed to the organization, notwithstanding Subsection (c), to determine by lot which two of the seven initial members will serve terms that expire January 1, 2023, which two of the seven initial members will serve terms that expire January 1, 2025, and which three of the seven initial members will serve terms that expire January 1, 2027. Provides that this subsection expires September 1, 2027.

(d) Authorizes the organization to employ an executive director, a chief investment officer, and other employees necessary to fulfill the organization's duties under this chapter.

(e) Authorizes the organization, in addition to the transfer made under Section 43.002 (Transfers from Permanent School Fund and General Revenue Fund to Available School Fund), to distribute from the PSF to the available school fund an amount of money determined in accordance with a formula established by organization rule. Requires the organization, in developing the formula for the distribution, to consider the historical trailing averages for the total market value of the PSF, growth in student enrollment, and inflation.

SECTION 3. Amends Sections 43.003, 43.0031, 43.0032, 43.0033, 43.0034, 43.004, 43.005, 43.0051, and 43.007, Education Code, as follows:

Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. Makes conforming changes to this section.

Sec. 43.0031. PERMANENT SCHOOL FUND ETHICS POLICY. (a)-(e) Makes conforming changes to these subsections.

Sec. 43.0032. CONFLICTS OF INTEREST. (a)-(c) Makes conforming changes to these subsections.

Sec. 43.0033. REPORTS OF EXPENDITURES. Requires a consultant, advisor, broker, or other person providing services to the organization, rather than SBOE, relating to the management and investment of the PSF to file with the organization regularly, as determined by the organization, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of certain entities and employees, and deletes existing text including an employee of a nonprofit corporation created under Section 43.006 (Investment Management). Makes conforming changes.

Sec. 43.0034. FORMS; PUBLIC INFORMATION. (a)-(c) Makes conforming changes to these subsections.

Sec. 43.004. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE EVALUATION. (a) and (b) Makes conforming changes to these subsections.

Sec. 43.005. EXTERNAL INVESTMENT MANAGERS. (a) Authorizes the organization, rather than SBOE, to contract with private professional investment managers to assist the organization in making investments of the PSF. Requires that a

contract under this subsection be approved by the organization, rather than by SBOE or otherwise entered into in accordance with SBOE rules relating to contracting authority. Makes a conforming change.

(b) Makes conforming changes to this subsection.

Sec. 43.0051. TRANSFERS TO REAL ESTATE SPECIAL FUND ACCOUNT OF THE PERMANENT SCHOOL FUND. Makes conforming changes to this section.

Sec. 43.007. PURCHASE AND SALE OR EXCHANGE OF SECURITIES. (a)-(c) Makes conforming changes to these subsections.

SECTION 4. Amends Sections 43.009(a), (b), and (c), Education Code, to make conforming changes.

SECTION 5. Amends Sections 43.010(a), (c), and (d), Education Code, to make conforming changes.

SECTION 6. Amends Sections 43.011(a), (b), (c), (d), and (e), Education Code, to make conforming changes.

SECTION 7. Amends Section 43.012, Education Code, as follows:

Sec. 43.012. REFUNDING OTHER DEFAULTED OBLIGATIONS. (a)-(f) Makes conforming changes to these subsections.

SECTION 8. Amends Section 43.014(a), Education Code, to make a conforming change.

SECTION 9. Amends Sections 43.015(b), (e), and (f), Education Code, to make conforming changes.

SECTION 10. Amends Sections 43.017, 43.018, and 43.019, Education Code, as follows:

Sec. 43.017. USE OF COMMERCIAL BANKS AS AGENTS FOR COLLECTION OF INCOME FROM PERMANENT SCHOOL FUND INVESTMENTS. (a) and (b) Makes a conforming change to these subsections.

Sec. 43.018. PARTICIPATION IN FULLY SECURED SECURITIES LOAN PROGRAMS. (a) and (b) Makes conforming changes to these subsections.

Sec. 43.019. ACCOUNTING TREATMENT OF CERTAIN EXCHANGES. Makes conforming changes to this section.

SECTION 11. Amends Section 51.011, Natural Resources Code, by amending Subsections (a) and (a-1) and adding Subsection (a-3), as follows:

(a) Requires that any land or mineral or royalty interest that is set apart to the PSF under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, be controlled, sold, and leased by the School Land Board (SLB) and the commissioner of GLO under the provisions of Chapter 51 (Land, Timber, and Surface Resources) and other applicable law.

Deletes existing text requiring that any real estate investment or other interest, including revenue received from those sources, that is set apart to the PSF under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, be subject to the sole and exclusive management and control of SLB and the commissioner of GLO under the provisions of this chapter and other applicable law.

(a-1) Makes conforming changes to this subsection.

(a-3) Requires that all revenue received from mineral or royalty interests described by Subsection (a), including bonus payments, surface lease revenues, royalties, and any other type of revenue received from those interests, be transferred each month to the organization for investment in the PSF.

SECTION 12. Amends Section 51.017, Natural Resources Code, as follows:

Sec. 51.017. New heading: FURNISHING DATA TO PERMANENT SCHOOL FUND INVESTMENT MANAGEMENT ORGANIZATION OR COMMISSIONER OF EDUCATION. Requires the commissioner of GLO, on request, to furnish all available data to the organization or the commissioner of education, rather than to SBOE.

SECTION 13. Amends Section 51.401(a), Natural Resources Code, as follows:

(a) Authorizes SLB to designate funds received from the sale of real property or mineral or royalty interests, rather than funds received from any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, set apart to the PSF under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, for deposit in the real estate special fund account of the PSF in the State Treasury to be used by SLB as provided by Section 51.402 (Use of Designated Funds), rather than as provided by Subchapter I (Acquisition of Public School Land).

SECTION 14. Amends Section 51.402(a), Natural Resources Code, to delete existing text authorizing SLB to use funds designated under Section 51.401 (Real Estate Special Fund Account) for certain purposes, except as provided by Subsection (c) (relating to the prohibition of the market value of certain investments made by SBOE with the PSF from exceeding a certain amount). Makes conforming changes.

SECTION 15. Amends Section 51.412(c), Natural Resources Code, as follows:

(c) Requires that the biennial report from SLB to the legislature assessing the direct and indirect economic impact of the investment of funds designated for deposit in the real estate special fund account of the PSF include certain information, including the total amount of the funds designated by Section 51.401 for deposit in the real estate special fund account of the PSF that SLB intends to invest in a manner authorized under Section 51.402 and the amount of the funds SLB expects to distribute to the available school fund or the organization, rather than SBOE, for investment in the PSF under Section 51.413 (Transfers from the Real Estate Special Fund Account to the Available School Fund and the Permanent School Fund) after making the investments.

SECTION 16. Amends Section 51.413, Natural Resources Code, as follows:

Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.  
(a) and (b) Makes conforming changes to these subsections.

SECTION 17. Amends Section 51.4131, Natural Resources Code, as follows:

Sec. 51.4131. REPORT ON ANTICIPATED TRANSFER OF FUNDS. Makes conforming changes to this section.

SECTION 18. (1) Repealer: Section 7.102(c)(31) (relating to the authority of SBOE to invest the PSF), Education Code.

(2) Repealers: Sections 43.0052 (Quarterly Reports) and 43.006 (Investment Management), Education Code.

(3) Repealers: Sections 32.0161 (Annual Joint Meeting) and 32.068 (Quarterly Reports), Natural Resources Code.

(4) Repealer: Section 51.402(c) (relating to the prohibition of the market value of certain investments made by SBOE with the PSF from exceeding a certain amount), Natural Resources Code, as amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the 86th Legislature, Regular Session, 2019.

(5) Repealer: Section 51.414 (Permanent School Fund Liquid Account), Natural Resources Code.

SECTION 19. Requires the appointing authorities, as soon as practicable after the effective date of this Act, to make the initial appointments to the organization in accordance with Section 43.0021, Education Code, as added by this Act.

SECTION 20. Requires SBOE and SLB, as soon as practicable after the appointment of the members of the organization, to provide for the transfer of powers, duties, functions, programs, and activities under this Act. Requires that the transfer be completed by August 1, 2022.

SECTION 21. Provides that, on September 1, 2021, the PSF liquid account is abolished and the unencumbered balance of that account is transferred to the PSF.

SECTION 22. Effective date: September 1, 2021.