

AN ACT

relating to investment of public funds, including certain expenditures by public institutions of higher education and university systems that are eligible for certain tax credits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2256.004(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least \$150 [~~\$95~~] million in book value on September 1, 2017 [~~May 1, 1995~~];

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

SECTION 2. Section 2256.009(a), Government Code, is amended to read as follows:

1 (a) Except as provided by Subsection (b), the following are
2 authorized investments under this subchapter:

3 (1) obligations, including letters of credit, of the
4 United States or its agencies and instrumentalities;

5 (2) direct obligations of this state or its agencies
6 and instrumentalities;

7 (3) collateralized mortgage obligations directly
8 issued by a federal agency or instrumentality of the United States,
9 the underlying security for which is guaranteed by an agency or
10 instrumentality of the United States;

11 (4) other obligations, the principal and interest of
12 which are unconditionally guaranteed or insured by, or backed by
13 the full faith and credit of, this state or the United States or
14 their respective agencies and instrumentalities, including
15 obligations that are fully guaranteed or insured by the Federal
16 Deposit Insurance Corporation or by the explicit full faith and
17 credit of the United States;

18 (5) obligations of states, agencies, counties,
19 cities, and other political subdivisions of any state rated as to
20 investment quality by a nationally recognized investment rating
21 firm not less than A or its equivalent; ~~and~~

22 (6) bonds issued, assumed, or guaranteed by the State
23 of Israel; and

24 (7) interest-bearing banking deposits that are
25 guaranteed or insured by:

26 (A) the Federal Deposit Insurance Corporation or
27 its successor; or

1 (B) the National Credit Union Share Insurance
2 Fund or its successor.

3 SECTION 3. Section 2256.011, Government Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) Section 1371.059(c) applies to the execution of a
6 repurchase agreement by an investing entity.

7 SECTION 4. Sections 2256.014(a) and (b), Government Code,
8 are amended to read as follows:

9 (a) A no-load money market mutual fund is an authorized
10 investment under this subchapter if the mutual fund:

11 (1) is registered with and regulated by the Securities
12 and Exchange Commission;

13 (2) provides the investing entity with a prospectus
14 and other information required by the Securities Exchange Act of
15 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act
16 of 1940 (15 U.S.C. Section 80a-1 et seq.); and

17 (3) complies with federal Securities and Exchange
18 Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated
19 under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et
20 seq.) [~~has a dollar-weighted average stated maturity of 90 days or~~
21 ~~fewer, and~~

22 [~~(4) includes in its investment objectives the~~
23 ~~maintenance of a stable net asset value of \$1 for each share]~~.

24 (b) In addition to a no-load money market mutual fund
25 permitted as an authorized investment in Subsection (a), a no-load
26 mutual fund is an authorized investment under this subchapter if
27 the mutual fund:

1 (1) is registered with the Securities and Exchange
2 Commission;

3 (2) has an average weighted maturity of less than two
4 years; and

5 (3) either:

6 (A) has a duration of one year or more and is
7 invested exclusively in obligations approved by this subchapter; or

8 (B) has a duration of less than one year and the
9 investment portfolio is limited to investment grade securities,
10 excluding asset-backed securities

11 [~~(4) is continuously rated as to investment quality by~~
12 ~~at least one nationally recognized investment rating firm of not~~
13 ~~less than AAA or its equivalent; and~~

14 [~~(5) conforms to the requirements set forth in~~
15 ~~Sections 2256.016(b) and (c) relating to the eligibility of~~
16 ~~investment pools to receive and invest funds of investing~~
17 ~~entities].~~

18 SECTION 5. Section 2256.015, Government Code, is amended by
19 adding Subsection (d) to read as follows:

20 (d) Section 1371.059(c) applies to the execution of a
21 guaranteed investment contract by an investing entity.

22 SECTION 6. Sections 2256.016(b) and (f), Government Code,
23 are amended to read as follows:

24 (b) To be eligible to receive funds from and invest funds on
25 behalf of an entity under this chapter, an investment pool must
26 furnish to the investment officer or other authorized
27 representative of the entity an offering circular or other similar

1 disclosure instrument that contains, at a minimum, the following
2 information:

3 (1) the types of investments in which money is allowed
4 to be invested;

5 (2) the maximum average dollar-weighted maturity
6 allowed, based on the stated maturity date, of the pool;

7 (3) the maximum stated maturity date any investment
8 security within the portfolio has;

9 (4) the objectives of the pool;

10 (5) the size of the pool;

11 (6) the names of the members of the advisory board of
12 the pool and the dates their terms expire;

13 (7) the custodian bank that will safekeep the pool's
14 assets;

15 (8) whether the intent of the pool is to maintain a net
16 asset value of one dollar and the risk of market price fluctuation;

17 (9) whether the only source of payment is the assets of
18 the pool at market value or whether there is a secondary source of
19 payment, such as insurance or guarantees, and a description of the
20 secondary source of payment;

21 (10) the name and address of the independent auditor
22 of the pool;

23 (11) the requirements to be satisfied for an entity to
24 deposit funds in and withdraw funds from the pool and any deadlines
25 or other operating policies required for the entity to invest funds
26 in and withdraw funds from the pool; ~~and~~

27 (12) the performance history of the pool, including

1 yield, average dollar-weighted maturities, and expense ratios; and
 2 (13) the pool's policy regarding holding deposits in
 3 cash.

4 (f) To be eligible to receive funds from and invest funds on
 5 behalf of an entity under this chapter, a public funds investment
 6 pool that uses amortized cost or fair value accounting [~~created to~~
 7 ~~function as a money market mutual fund~~] must mark its portfolio to
 8 market daily, and, to the extent reasonably possible, stabilize at
 9 a \$1.00 [~~\$1~~] net asset value, when rounded and expressed to two
 10 decimal places. If the ratio of the market value of the portfolio
 11 divided by the book value of the portfolio is less than 0.995 or
 12 greater than 1.005, the governing body of the public funds
 13 investment pool shall take action as the body determines necessary
 14 to eliminate or reduce to the extent reasonably practicable any
 15 dilution or unfair result to existing participants, including a
 16 sale of portfolio holdings to attempt [~~shall be sold as necessary~~]
 17 to maintain the ratio between 0.995 and 1.005. In addition to the
 18 requirements of its investment policy and any other forms of
 19 reporting, a public funds investment pool that uses amortized cost
 20 [~~created to function as a money market mutual fund~~] shall report
 21 yield to its investors in accordance with regulations of the
 22 federal Securities and Exchange Commission applicable to reporting
 23 by money market funds.

24 SECTION 7. Subchapter A, Chapter 2256, Government Code, is
 25 amended by adding Section 2256.0206 to read as follows:

26 Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING
 27 TRANSACTIONS. (a) In this section:

1 (1) "Eligible entity" means a political subdivision

2 that has:

3 (A) a principal amount of at least \$250 million

4 in:

5 (i) outstanding long-term indebtedness;

6 (ii) long-term indebtedness proposed to be

7 issued; or

8 (iii) a combination of outstanding

9 long-term indebtedness and long-term indebtedness proposed to be

10 issued; and

11 (B) outstanding long-term indebtedness that is

12 rated in one of the four highest rating categories for long-term

13 debt instruments by a nationally recognized rating agency for

14 municipal securities, without regard to the effect of any credit

15 agreement or other form of credit enhancement entered into in

16 connection with the obligation.

17 (2) "Eligible project" has the meaning assigned by

18 Section 1371.001.

19 (3) "Hedging" means acting to protect against economic

20 loss due to price fluctuation of a commodity or related investment

21 by entering into an offsetting position or using a financial

22 agreement or producer price agreement in a correlated security,

23 index, or other commodity.

24 (b) This section prevails to the extent of any conflict

25 between this section and:

26 (1) another law; or

27 (2) an eligible entity's municipal charter, if

1 applicable.

2 (c) The governing body of an eligible entity shall establish
3 the entity's policy regarding hedging transactions.

4 (d) An eligible entity may enter into hedging transactions,
5 including hedging contracts, and related security, credit, and
6 insurance agreements in connection with commodities used by an
7 eligible entity in the entity's general operations, with the
8 acquisition or construction of a capital project, or with an
9 eligible project. A hedging transaction must comply with the
10 regulations of the federal Commodity Futures Trading Commission and
11 the federal Securities and Exchange Commission.

12 (e) An eligible entity may pledge as security for and to the
13 payment of a hedging contract or a security, credit, or insurance
14 agreement any general or special revenues or funds the entity is
15 authorized by law to pledge to the payment of any other obligation.

16 (f) Section 1371.059(c) applies to the execution by an
17 eligible entity of a hedging contract and any related security,
18 credit, or insurance agreement.

19 (g) An eligible entity may credit any amount the entity
20 receives under a hedging contract against expenses associated with
21 a commodity purchase.

22 (h) An eligible entity's cost of or payment under a hedging
23 contract or agreement may be considered:

24 (1) an operation and maintenance expense of the
25 eligible entity;

26 (2) an acquisition expense of the eligible entity;

27 (3) a project cost of an eligible project; or

1 (4) a construction expense of the eligible entity.

2 SECTION 8. (a) Section 171.901(4), Tax Code, is amended to
3 read as follows:

4 (4) "Eligible costs and expenses" means qualified
5 rehabilitation expenditures as defined by Section 47(c)(2),
6 Internal Revenue Code, except that the depreciation and tax-exempt
7 use provisions of that section do not apply to costs and expenses
8 incurred by an entity exempt from the tax imposed under this chapter
9 by Section 171.063 or by an institution of higher education or
10 university system as defined by Section 61.003, Education Code, and
11 those costs and expenses are eligible costs and expenses if the
12 other provisions of Section 47(c)(2), Internal Revenue Code, are
13 satisfied.

14 (b) Effective January 1, 2022, Section 171.901(4), Tax
15 Code, is amended to read as follows:

16 (4) "Eligible costs and expenses" means qualified
17 rehabilitation expenditures as defined by Section 47(c)(2),
18 Internal Revenue Code, except that the depreciation and tax-exempt
19 use provisions of that section do not apply to costs and expenses
20 incurred by an entity exempt from the tax imposed under this chapter
21 by Section 171.063, and those costs and expenses are eligible costs
22 and expenses if the other provisions of Section 47(c)(2), Internal
23 Revenue Code, are satisfied.

24 SECTION 9. The changes in law made by this Act apply only to
25 authorized investments of public funds governed by Chapter 2256,
26 Government Code, as amended by this Act, that are made on or after
27 the effective date of this Act. An authorized investment of public

1 funds made before the effective date of this Act is governed by the
2 law in effect immediately before that date, and that law is
3 continued in effect for that purpose.

4 SECTION 10. (a) Section 171.901(4), Tax Code, as amended by
5 Section 8(a) of this Act, applies only to costs and expenses
6 incurred on or after the effective date of this Act.

7 (b) Section 171.901(4), Tax Code, as amended by Section 8(b)
8 of this Act, applies only to costs and expenses incurred on or after
9 January 1, 2022.

10 SECTION 11. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 1003 was passed by the House on April 28, 2017, by the following vote: Yeas 134, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1003 on May 25, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1003 on May 28, 2017, by the following vote: Yeas 145, Nays 2, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1003

I certify that H.B. No. 1003 was passed by the Senate, with amendments, on May 22, 2017, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1003 on May 28, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor