

#2 901
AUG 24 2021

Consent-Treasurer

Commissioners Court-Regular Meeting

TO: Montgomery County Commissioners Court

FROM: Melanie Bush, Treasurer

DATE: 08/24/2021

SUBJECT: Consider and adopt the Montgomery County Investment Policy for 2021-2022.

Attachments

2021-2022 - Investment Policy

#2 901

AUG 24 2021

MONTGOMERY COUNTY INVESTMENT POLICY



Prepared by:

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I. PURPOSE

The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment process. The initial step toward a prudent investment policy is to organize and formalize investment-related activities. Related activities, which comprise good cash management, include accurate cash projection, the expeditious collection of revenue, the control of disbursements, and cost effective banking relations. In concert with these requirements are the many facets of an appropriate and secure short-term investment program.

II. SCOPE

It is intended this policy cover all financial assets under the direct authority of Montgomery County. These funds include all governmental funds, proprietary and fiduciary funds, and are accounted for in the County's Comprehensive Annual Financial Report.

This investment policy applies to all transactions involving the financial assets and related activity of all the foregoing funds.

III. DEFINITIONS

Unless the context requires otherwise, the following terms and phrases used in this Policy shall mean the following:

1. "Collateral" means any security or other obligation, which the County authorizes to serve as security for the deposit of County funds.
2. "Collateral act" means Chapter 2257, Texas Government Code, as amended from time to time.
3. "Commissioners Court" means the elected governing body of Montgomery County consisting of the County Judge and four (4) Precinct Commissioners.
4. "Delivery vs Payment (DVP)" means a method of settling trades in which cash is exchanged for securities simultaneously.
5. "Depository Bank" means the banking institution that is contracted to process the County's receipts, disbursements, and investments, and to provide safekeeping services.
6. "Investment Act" means Chapter 2256, Texas Government Code, as amended from time to time, also referred to as the Texas Public Funds Investment Act or PFIA.

7. "Investment Officer" means the Employee appointed as County Investment officer to administer all investment activity of County funds under the Investment Act standard of care "prudent person" and to monitor compliance and management-level controls.

IV. AUTHORIZATION

In accordance with Section 116.112, Local Government Code, the County Treasurer, upon direction of Commissioners' Court, is authorized to withdraw funds of the county from a county depository, if the funds are not required immediately to pay obligations of the county, and to invest these funds in accordance with the statute.

There is hereby an investment committee consisting of the County Treasurer, County Judge and Montgomery County Citizen with expertise in finance area.

The investment committee shall meet at least annually to determine general strategies and to monitor results. The investment committee shall include in its deliberations such topics as: economic outlook, portfolio diversification and maturity structure, potential risks to the County's funds, approval of authorized financial institutions, and the target rate of return on the investment portfolio. The County Treasurer shall formally report to Commissioners' Court on a monthly basis.

The provisions of Chapter 2256 as amended effective September 1, 2019, of the Texas Government Code are incorporated herein by reference for all purposes. (See Appendix C attached). Should the Montgomery County Statement of Investment Policy conflict in any way with any portion of Chapter 2256, the language of the Government Code shall prevail, except where the investment policy is more restrictive than the Code.

A. TRAINING

The Investment Officer or designee shall be an active member of the Texas Association of Counties Investment Academy or in the active process of attaining membership and attend investment training as required by the Investment Act.

B. DISCLOSURE OF RELATIONSHIPS OF PERSONS SELLING INVESTMENTS TO THE COUNTY

The Investment Officer or Designee or contracted entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entities shall file a statement disclosing that personal interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that

relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. The Investment Act, Section 2256.005(i) should be referred to for more qualifying events and it is the responsibility of the Investment Officers, and Broker/dealers to be knowledgeable of and compliant with reportable events and relationships.

V. INVESTMENT OBJECTIVES

Safety of principal is the foremost objective of the County, followed by liquidity and yield. Each investment transaction shall seek to ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value.

Investment decisions should not incur unreasonable investment risks in order to obtain current investment income.

The County's investment portfolio will remain sufficiently liquid to enable the County to meet all operating requirements, which might be reasonably anticipated.

The investment portfolio shall be designed to attain a market-average rate of return throughout budgeting and economic cycles, taking into account the County's investment risk constraints, cash flow characteristics of the portfolio, and state law that restricts the placement of County funds.

The County will attempt to diversify its investments to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

The County will not make investments for the purpose of trading or speculation as the dominant criteria, such as anticipating an appreciation of capital through changes in market interest rates.

"The County adheres to the guidance provided by the "prudent person rule", which obligates a fiduciary to ensure that: "investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived."

In managing its investment portfolio, the County will specifically avoid any purchase of investments, or any investment practice or procedures not specifically authorized under terms of this document.

All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the County's ability to govern effectively. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust.

A. INVESTMENT FACILITATION

Montgomery County Interest and Sinking Funds will be invested consistent with debt payment dates, at the highest and best rate available. These funds may be invested for up to 365 days.

In order to allow the maximum flexibility for Montgomery County investments, the Commissioners' Court extends the County Treasurer full authority for investment of funds between meetings of the Commissioners' Court.

Funds will generally be placed for short-term investment periods, i.e., up to 90 days, unless a cash flow forecast indicates the availability of idle funds for longer than 90 days.

B. INVESTMENT METHODS

The County Treasurer shall utilize the following methods for the investment of Montgomery County funds, consistent with Federal and State Law and the current Bank Depository Contract:

1. Time Deposits
2. Certificates of Deposit
3. Money Market Investment Accounts
4. Negotiable Order of Withdrawal (NOW) Accounts
5. United States Treasury Bills
6. United States Government Securities, as defined in TX Government Code, Section 2256.009
7. Fully collateralized direct repurchase agreements as defined in TX Government Code, Section 2256.011
8. Discount Government Agencies

9. Any "Public Funds Pool" authorized by State Statute.
10. Commercial Paper as defined in TX Government Code, Section 2256.013
11. Taxable Municipal Bonds: Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than AA and/or Aa3 or its equivalent; and a minimum underlying rating of at least an A, as defined in TX Government Code, Section 2256.009.

C. INVESTMENT LIMITATIONS

1. Direct Investments of Government Securities should be equally distributed among different types of securities when possible.
2. No Reverse Repurchase allowed.

D. INVESTMENT INSTITUTION

The County Treasurer shall utilize the following institutions or groups to facilitate the investment of Montgomery County funds, consistent with Federal and State Law and the current Bank Depository Contract:

1. County Depository Bank
2. Other Texas Domiciled Banks
3. Investment Banks
4. Major Brokerage Houses
5. Savings Bank
6. State Authorized "Public Funds Pool"

All Brokerage Firms, Money Market Funds, and Investment Pools are to be approved by the Investment Committee and Commissioners' Court.

E. INVESTMENT COLLATERAL

Any Montgomery County investment of funds shall be collateralized, consistent with Federal and State Law, the Texas Public Funds Investment Act, and the current Bank Depository Contract, without exception, in one or more of the following manners.

1. Federal Home Loan Board Letter of Credit

2. Federal Deposit Insurance Corporation (FDIC) (Required Amount)
3. Federal Savings and Loan Insurance Corporation (FSLIC) (Required Amount)
4. United States Government Securities
5. State Government Bonds
6. Municipal Government Bonds
7. School District Bonds
8. Municipal Utility District Bonds
9. Written Instrument Purchaser's Receipt for Repurchase Agreements, secured by one of the following:
 - a. United States Treasury Bills
 - b. United States Treasury Notes
 - c. United States Treasury Bonds
 - d. Federal Home Loan Bank (FHLB) Obligations
 - e. Federal Farm Credit Bank (FFCB) Obligations
 - f. Federal Land Bank Obligations
10. Commercial Paper
 - a. Rated not less than A-1 or P-1 or an equivalent by one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

F. INTERNAL CONTROLS

The Investment Officer investing funds shall establish a system of internal controls. At least annually, the Commissioners Court shall review those controls as established and the control in actual practice. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, and misrepresentation by third parties, or imprudent actions by employees and officers of the County. Controls deemed most important would include: separation of duties, separating transaction authority from accounting and recordkeeping, custodial safekeeping, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, and documentation of transactions and strategies.

G. BANKS AND SECURITIES: DEALERS SELECTION

The County's Depository shall be selected every four years in accordance with statutory provisions. Primary government securities dealers that report to the New York Federal Reserve Bank Court shall be selected. (It is acknowledged that inclusion on the primary dealer listing of the Federal Reserve Bank of New York is not a guarantee of credit worthiness.) Secondary Dealers must abide by the Capital Adequacy Standards. We require immediate disclosure when they fall short of cash to meet this Standard. We also require an independent certification by outside auditors of Secondary Dealers.

Approved Montgomery County Brokers and/or Money Market Funds/Investment Pools are required to notify us of any legal action(s) against them during the term of our agreement with them.

Broker/dealers desiring to become approved broker/dealers for Montgomery County for investment transactions must supply the following: (1) the most recent audited financial statements for the financial institution or broker/dealer and (2) evidence of registration with the appropriate regulatory agency.

Commissioners Court will approve at least annually a broker/dealer list. At the recommendation of the Investment Committee, the Commissioners Court may approve additions or removals to the brokers/dealers list on a quarterly basis. Following approval by the Commissioners Court of any update to the broker/dealers list, the list will be posted on the Montgomery County Treasurer's website and available in hard copy form in the Montgomery County Treasurer's Office.

H. CERTIFICATIONS FROM APPROVED BROKER/DEALERS

A copy of the investment policy shall be presented to a qualified representative of any business offering to engage in an investment transaction with the County. A business organization includes banks, broker/dealers, and investment pools. The qualified representative of the business organization offering to engage in an investment transaction shall execute a written instrument in a form acceptable to the County substantially to the effect that the business organization has (1) received and reviewed the investment policy of the entity; and (2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions not authorized within the investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entire portfolio or requires and interpretation of subjective investment standards. The investment officer may not acquire or otherwise obtain any authorized investment described in the investment policy from a person who has not delivered the required

document.

I. MATURITY

Assets of the County shall be invested in instruments whose maturities do not exceed three years (1095 days) at the time of purchase, except Commercial Paper must have a stated maturity of 270 days or fewer from date of issuance.

It is the intent that investments in all funds shall be managed in such a way that any market price losses resulting from interest-rate volatility would be offset by coupon income and current income received from the balance of the portfolio during a twelve-month period. No maturity extension should be undertaken if it would result in negative income on the overall fund's portfolio during a given year.

J. DIVERSIFICATION

Where possible, it is the policy of the County to diversify its investment portfolio. Assets held in the common treasury fund, and other investment funds, shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity. As specific diversification strategy, the following general policies and constraints shall apply: Portfolio maturities shall be staggered in a way that avoids undue concentration of assets in a specific maturity sector. Maturities shall be selected which provide for stability of income and reasonable liquidity.

Liquidity shall be ensured through practices to ensure that the next disbursement date and payroll date are covered through maturing investments or marketable U.S. Treasury Bills.

K. RISK TOLERANCE

Portfolio diversification is employed as a way to control risk. Investment officer will exercise prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken, which jeopardizes the total capital position of the overall portfolio. All investment reports shall specifically address whether current investment results have been affected by any of the foregoing risks, and shall explain what actions investment officials have taken to control or correct for such risks.

In addition to these general policy considerations, the following specific policies will be strictly observed:

1. All investment funds shall be placed directly with qualified financial institutions. The County will not deposit or invest funds through third parties or money brokers, with the exception of approved money market

funds, government pooled funds, and as part of investment services rendered under a current depository contract.

2. All transactions will be executed on a delivery versus payment basis.
3. The County will not enter into Reverse Repurchase Agreements, nor trade in options or future contracts.
4. A competitive bid process will be used to place government security purchases and repurchase agreements. On a continuing basis, we will assess our securities dealers based on the following criteria:
 - a. Number of transactions competitively won.
 - b. Prompt and accurate confirmation of transactions.
 - c. Efficient securities delivery.
 - d. Accurate market information.
 - e. Account servicing.
5. Before accepting funds or engaging in investment transactions with the County, officials of approved depository and securities dealers shall be required to familiarize themselves with the County's investment objectives and constraints.

L. SAFEKEEPING AND CUSTODY

To protect against potential fraud and embezzlement, the assets of the County shall be secured through third-party custody and safekeeping procedures. The investment officer shall require evidence of third party safekeeping in the form of receipts for same on all transactions. Bearer instruments shall be held only through third-party institutions. The investment official shall be bonded to protect the public against possible embezzlement and malfeasance.

Safekeeping procedures shall be reviewed annually by the independent auditor.

VI. REPORTS: MONTHLY AND QUARTERLY

A. MONTHLY

The County Treasurer shall provide monthly reports reflecting investments that provide a breakout of each authorized investment institution, and the funds invested with each institution. The estimated return (interest earnings) of the investment, and

the length of time the funds are invested for. These monthly reports shall be provided to the governing body, the investment committee members, and the investment committee advisors.

B. QUARTERLY

At least once a quarter the County Treasurer shall provide a Quarterly Investment Report that complies with the Public Funds Investment Act, Section 2256.023 and meets GAAP reporting requirements.

C. YEARLY

The County Treasurer shall provide a Yearly Investment Report that complies with the Public Funds Investment Act.

The County's Broker/dealer Questionnaire shall be remitted annually. The Questionnaire must be filled out completely for purposes of updating and review by the County's Investment Committee.

D. REPORTING FORMAT

All monthly and quarterly reports shall be reported in a form approved by the Investment Committee and Commissioner's Court.

VII. STRATEGY

The strategy for Montgomery County Investments as agreed upon and recommended by the Montgomery County Investment Officer, apply to the following accounts:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Projects Funds
- Agency Funds

Our strategy is as follows:

1. Safety of principal is the foremost objective of the County, followed by liquidity and yield. Each investment transaction shall seek to ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value.

2. Investment decisions should not incur unreasonable investment risks in order to obtain current investment income.
3. The County's investment portfolio will remain sufficiently liquid to enable the County to meet all operating requirements, which might be reasonably anticipated.
4. The investment portfolio shall be designed to attain a market-average rate of return throughout budgeting and economic cycles, taking into account the County's investment risk constraints, the cash flow characteristics of the portfolio, and state law that restricts the placement of county funds.
5. The County will attempt to diversify its investments to avoid incurring unreasonable and avoidable risks regarding specific types or individual financial institutions.
6. The County will not make investments for the purpose of trading or speculation as the dominant criteria, such as anticipating an appreciation of capital through changes in market interest rate.
7. The County adheres to the guidance provided by the "prudent person rule", which obligates a fiduciary to ensure that, ".....investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment considering the probable safety of their capital as well as the probable income to be derived."
8. In managing its investment portfolio, the County will specifically avoid any purchase of investments, or any investment practice or procedure not specifically authorized by the investment policy as approved by Commissioner's Court.
9. All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the County's ability to govern effectively. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust.

Submitted by Melanie K. Bush County Treasurer
Chairman, Investment Committee

VIII. TYPE OF SECURITIES

A. UNITED STATES TREASURY SECURITIES

U. S. Treasury – Bill (T-Bill) A treasury bill is an obligation of the United States Government to pay the bearer a fixed sum on a specific date . T-Bills are sold at a discount from their par (face) value.

The return on investment is the difference between the discounted purchase price and the selling price or face value at maturity. T-Bills are short-term securities with fixed maturity of one year or less. T-Bills are backed by the full faith and credit of the United States Government.

U.S. Treasury – Notes and Bonds (T-Notes and T-Bonds) T-Notes and T-Bonds are coupon securities paying interest every six months. T-Notes have a fixed maturity of not less than one year or more than ten years. T-Bonds are securities with maturities of more than ten years. T-Notes and T-Bonds are sold at a premium or discount depending on the coupon rate of the security. Interest is accrued for those T-Bonds purchased between interest periods. T-Notes and T- Bonds are backed by the full faith and credit of the United States Government.

B. UNITED STATES GOVERNMENT AGENCY AND INSTRUMENTALITY SECURITIES

Tennessee Valley Authority (TVA), Established by an act of congress in 1933 to develop the resources of the Tennessee Valley region. TVA bonds are not obligations of, nor are they guaranteed by, the United States.

C. INSTRUMENTALITIES

Federal Farm Credit Bank (FFCB) Federal Farm Credit Bank bonds are not backed by the full faith and credit of the United States government. The bonds are secured by collateralized obligations of the banks operating under federal charter and governmental supervision.

Federal Home Loan Bank (FHLB) system was organized in 1932 under the Federal Home Loan Bank Act and restructured under the Financial Institutions Reform Recovery, and Enforcement Act of 1989 (FIRREA). Twelve District Banks comprise the system and are distributed geographically around the country. The obligations of the system are not backed by the full faith and credit of the United States Government. However, the banks are required to maintain secured advances, guaranteed mortgages, U.S. Government securities or cash in an account of at least equal in size to its outstanding obligations.

D. GSE – GOVERNMENT SPONSORED ENTITIES

1. Fannie Mae

Fannie Mae is a government-sponsored entity that was established by Federal law and work under a government charter. The government established Fannie Mae in 1938 to provide government-backed home loans in an attempt to increase levels of home ownership in America. Fannie Mae does not originate or provide mortgages to borrowers. It purchases and guarantees home loans through the secondary mortgage market. Fannie Mae creates more liquidity for lenders such as banks, thrifts, and credit unions, which in turn allows them to underwrite or fund more mortgages. Fannie Mae's mortgage backed securities are purchased by institutions such as insurance companies, pension funds, and investment banks. In the latter half of 2008, Fannie Mae and Freddie Mac were taken over by the government via conservatorship of the Federal Housing Financing Committee. Treasury made a commitment to provide funding under certain circumstances if Fannie has a net worth deficit. Historically, Fannie Mae purchased mortgage loans from bank lenders.

2. Freddie Mac

Freddie Mac is also a government-sponsored entity established by Federal law. Freddie Mac is set up similar to Fannie Mae and is still under conservatorship of the Federal Housing Finance Committee. Historically, Freddie Mac provided mortgage funding for savings and loan lenders.

E. MUNICIPAL BONDS

Municipal bonds are debt obligations issued by states, cities, counties and other government entities that use the money to build schools, highways, hospitals, sewer systems and many other projects for the public good. When you purchase a municipal bond you are lending money to a state or local government entity, which in turn promises to pay you a specified amount of interest.

F. TAXABLE MUNICIPAL BONDS

Taxable Municipal bonds are an entirely separate market of municipal issues that are taxable at the federal level, but still offer a state and often local tax exemption on interest paid to the residents of the state of issuance. Taxable municipals offer yields more comparable to those of taxable sectors, such as corporate bonds or bonds issued by U.S. government agencies, than to those of tax-exempt municipals.

G. COMMERCIAL PAPER

Commercial paper is an unsecured form of promissory note that pays a fixed rate of interest. It is typically issued by large banks or corporations to cover short-term receivables and meet short-term financial obligations, such as funding a new project. As with any other type of bond or debt instrument, the issuing entity offers the paper assuming that it will be in a position to pay both interest and principal by maturity. It is seldom used as a funding vehicle for longer-term obligations.

Commercial Paper was first introduced over 100 years ago, when New York merchants began to sell their short-term obligations to dealers that acted as middlemen. These dealers would purchase the notes at a discount from their par value and then pass them on to banks and other investors. The borrower would then repay the investor an amount equal to the par value of the note.

Commercial Paper usually pays a higher rate of interest than guaranteed instruments and the rates tend to rise along with national economic growth. They are backed solely by the financial strength of the issuer. Standard and Poor's and Moody both rate commercial paper on a regular basis.

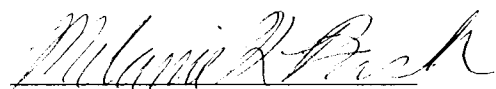
INVESTMENT POLICY ADOPTION

The County Investment policy shall be formally reviewed and approved by the Commissioner's Court annually in accordance with Public Funds Investment Act Chapter 2256.005(e).

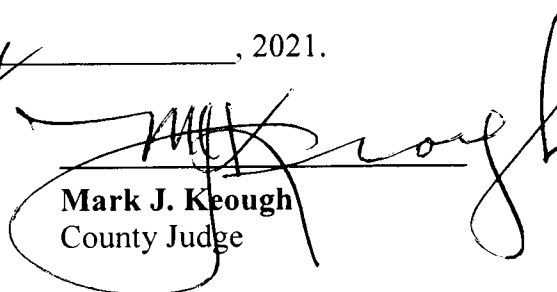
This County Investment policy is adopted by the Montgomery County Commissioner's Court.

I, the undersigned Montgomery County Investment Committee do hereby concur with and approve the herein contained objectives and concepts for the Montgomery County Investment Procedures.

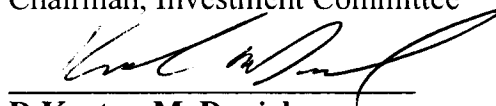
Signed this 20th day of July, 2021.



Melanie K. Bush
County Treasurer
Chairman, Investment Committee



Mark J. Keough
County Judge



D. Keaton McDaniel

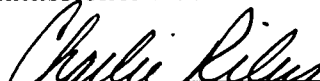
Approved by Commissioner's Court in a duly posted meeting on this the 24 day of August, 2021.



County Judge, Mark J. Keough



Commissioner Robert C. Walker



Commissioner Charlie Riley



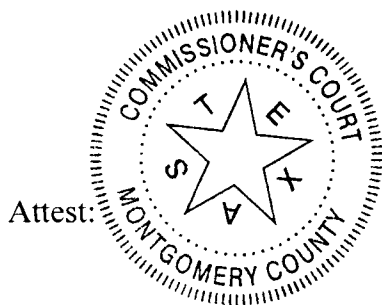
Commissioner James Noack



Commissioner James Metts



County Clerk, Mark Turnbull



Section IX

MONTGOMERY COUNTY INVESTMENT POLICY AFFIDAVIT

Business Name: _____

Address: _____

Telephone: _____

I hereby certify that I am the registered principal of the above named business seeking to sell an authorized investment to Montgomery County.

I have received and have thoroughly reviewed the Montgomery County Investment Policy and have completed a questionnaire and returned it within the required time.

I acknowledge the above named business of which I am the registered principal has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between Montgomery County and my above named business.

I acknowledge that this instrument is transacted in compliance with Chapter 2256, Government Code as amended and effective September 1, 2019.

Signed this _____ day of _____ 2021.

Name: _____

Title: _____

Business Name: _____

APPENDIX A

**MONTGOMERY COUNTY
Broker/Dealer Questionnaire**

Please fill out all that apply in Appendix A and Appendix B, place a N/A in any section that does not apply.

NOTE: Failure to answer each question and provide applicable attachments where necessary may result in your application not being processed

1. Firm name: _____

2. Address: _____

Telephone: _____ Email: _____

3. Primary Representative/Manager/Partner-in-charge:

Name: _____ Email: _____

Title: _____ Telephone: _____

4. Registered Principal:

Name: _____ Email: _____

Title: _____ Telephone: _____

5. Are you a primary dealer in U. S. Government securities? Yes No

6. What was your firm's total volume in U. S. Government and agency securities last year?

7. Identify which of the following instruments are offered by your local desk:

T-Bills

Agencies (specify below:)

Treasury Notes/Bonds

Others (specify below:)

Bank CD's

S&L CD's

8. Identify all personnel who will be trading with or quoting securities to our employees. Please provide names, titles, and telephone numbers.

_____	_____
_____	_____
_____	_____
_____	_____

9. Have all of the above listed people received our county's investment policies/strategies and the Public Funds Investment Act of Texas, and have they signed the county-provided statement that certifies they have read the above information and will abide by the laws and policies regulating our county? This must be accomplished before our county can authorize doing business with them.

10. Please indicate which agents of your firm's local offices are licensed, certified, or registered and by whom. (FDIC, SEC, NYSE, Fed. Reserve Bank, FINRA)

Name:	Licensed or registered by
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

11. Please provide references from at least four comparable public sector clients. We would prefer public sector clients located in the State of Texas.

Entity:	Contact:	Telephone:	Client Since:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. Have any of your public sector clients ever sustained a loss on a securities transaction arising from a misunderstanding or misrepresentation of the risk characteristics of the instrument? (If yes, attach an explanation with client and contact person)

13. Has a public-sector client ever claimed in writing that your firm was responsible for investment losses? (If yes, attach an explanation with client and contact person)

14. Has your firm or any of your employees ever been subjected to a regulatory or state/federal agency investigation for alleged improper, fraudulent, disreputable or unfair activities related to the sale of the securities? (If yes, attach explanation with name of agency)

15. How many and what percentage of your transactions failed last month? What were the reasons for failure? Please provide client name, contact person, and telephone number of the client involved in the failure.

16. Last year? What were the reasons for failure? Please provide client name, contact person, and telephone number of the client involved with failure.

17. Please explain your normal custody and delivery process. Who audits these fiduciary systems? In addition, please provide their contact information.

18. What reports, transactions, confirmations and paper trail will we receive?

19. Please include samples of research reports that your firm regularly provides to public-sector clients.

20. What training would you offer for our employees and investment officers?

21. What portfolio information do you require from your clients?

22. Describe the precautions taken by your firm to protect the interests of the public when dealing with governmental agencies as investors.

23. Please provide certified financial statements and other indicators regarding your firm's capitalization.

24. Describe the capital line and trading limits that support/limit the office that would conduct business with our county.

25. Does your firm consistently comply with the Federal Reserve Bank's capital adequacy guidelines?

26. By what factor (1.5X, 2X, etc.) does your firm presently exceed the capital adequacy guidelines? Include certified documentation of your capital adequacy as measured by the Federal Reserve standards.

27. Do you participate in the SIPC Insurance program? If no, attach explanation.

28. Please enclose a complete schedule of fees and charges for various transactions.

29. Does at least one nationally recognized Investment Rating Firm continuously rate the Pool, Mutual Fund or Money market?

Moody's: Rating: _____ Date: _____

Standard and Poor's: Rating: _____ Date: _____

Fitch: Rating: _____ Date: _____

Other (specify): Rating: _____ Date: _____

30. Has the firm or has the primary representative(s) of the firm participated in the influence of legislative change that directly, or indirectly resulted in a financial gain to the firm or the primary member(s) of the firm? If yes, please attach explanation.

31. Disclosures: Has the firm or has the primary representative(s) of the firm contributed to the election campaigns of any member of the Montgomery County Commissioners Court or Montgomery County Investment Committee? Does the firm or any primary representative(s) of the firm have any immediate family relationship or significant business relationship with any of the same members?

APPENDIX B

**MONTGOMERY COUNTY
Broker/Dealer Questionnaire
For Money Market and Investment Pool funds**

NOTE: Failure to answer each question and provide applicable attachments where necessary may result in your application not being processed

If you offer Money Market, Mutual Funds or Pool Funds, please answer the questions below:

1. Firm name: _____

2. Address: _____

Telephone: _____ Email: _____

3. Primary Representative/Manager/Partner-in-charge:

Name: _____ Email: _____

Title: _____ Telephone: _____

4. Registered Principal:

Name: _____ Email: _____

Title: _____ Telephone: _____

5. Name of the Fund: _____

Website: _____

6. Who regulates the Pool/Fund? Are regulations and findings available for public access? If so, how?

7. How are the Pools insured?

8. What guarantees the county that you are only using government backed securities as collateralization on our funds?

9. Whom would we report/complain to if we experience a loss with our funds in your Pool?

10. Can you provide a copy of your most recent annual report? Note: An external audit report is necessary in order to have credibility.

11. Please enclose a complete schedule of fees and charges for various transactions.

12. Does at least one nationally recognized Investment Rating Firm continuously rate the Pool, Mutual Fund or Money market?

Moody's: <input type="checkbox"/>	Rating: _____	Date: _____
Standard and Poor's: <input type="checkbox"/>	Rating: _____	Date: _____
Fitch: <input type="checkbox"/>	Rating: _____	Date: _____
Other (specify): <input type="checkbox"/>	Rating: _____	Date: _____

APPENDIX C

**PUBLIC FUNDS INVESTMENT ACT CHAPTER 2256,
TEXAS GOVERNMENT CODE**

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities

that participate in the pool and whose investment objectives in order of priority are:

- (A) preservation and safety of principal;
- (B) liquidity; and
- (C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-

1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

- (1) a local government;
- (2) a state agency;
- (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
- (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control.

A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the

contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (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 million in book value on September 1, 2017;

(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.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 1, eff. June 14, 2017.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

- (1) orally;
- (2) in writing;
- (3) electronically; or
- (4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each

investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

- (1) understanding of the suitability of the investment to the financial requirements of the entity;
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as

fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg.,
ch. 685, Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg.,
ch. 1421, Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this subsection and Subsection (l), "business organization" means an investment pool or investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 149 (H.B. 1701), Sec. 1, eff. September 1, 2017.

Sec. 2256.006. STANDARD OF CARE.

(a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

- (1) preservation and safety of principal;
- (2) liquidity; and
- (3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS.

(a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.

(a) Except as provided by Subsections (a-1), (b), (b-1), (e), and (f), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment

responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) Except as provided by Subsection (g), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality, in addition to the requirements of Subsection (a)(1), shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(b-1) A housing authority created under Chapter 392, Local Government Code, may satisfy the training requirement provided by Subsection (a)(2) by requiring the following person to attend, in each two-year period that begins on the first day of that housing authority's fiscal year and consists of the two consecutive fiscal

years after that date, at least five hours of appropriate instruction:

(1) the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, or the investment officer; or

(2) if the authority does not have an officer described by Subdivision (1), another officer of the authority.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality or housing authority if the municipality or housing authority:

(1) does not invest municipal or housing authority funds, as applicable; or

(2) only deposits those funds in:

(A) interest-bearing deposit accounts; or

(B) certificates of deposit as authorized by

Section 2256.010.

(g) Subsection (a-1) does not apply to the treasurer, chief financial officer, or investment officer of a school district if:

(1) the district:

(A) does not invest district funds; or

(B) only deposits those funds in:

(i) interest-bearing deposit accounts; or

(ii) certificates of deposit as authorized

by Section 2256.010; and

(2) the treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under Subdivision (1) that apply to the district.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1248 (H.B. 870), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.015, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 477 (H.B. 293), Sec. 1, eff. June 7, 2019.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

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

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

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by

the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

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

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

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

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

(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025; or

(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);

(ii) an entity described by Section 2257.041(d); or

(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 2, eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 863 (H.B. 2647), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 1, eff. September 1, 2017.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES.

(a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is

issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in accordance with Chapter 2257 or in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange

Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 2, eff. September 1, 2017.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

- (1) has a defined termination date;
- (2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204;
- (3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and
- (4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes

a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

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

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 6, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 3, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 1, eff. September 1, 2019.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM.

(a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:
(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES. A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term

obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER. Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 365 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 2, eff. September 1, 2019.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS.

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

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

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

(3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated

under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

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

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

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

(3) either:

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

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

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 4, eff. June 14, 2017.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS.

(a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

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

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 5, eff. June 14, 2017.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS.

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

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

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

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

(4) the objectives of the pool;

(5) the size of the pool;

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

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

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

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

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

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

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter:

(1) a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily; and

(2) if the investment pool uses amortized cost:

(A) the investment pool must, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places;

(B) the governing body of the investment pool must, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and

(C) the investment pool must, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and

are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 7, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 6, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 3, eff. September 1, 2019.

Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 2, eff. May 23, 2017.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. 495), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral

development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS.

(a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section

may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. 1543), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST. (a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. 1464), Sec. 1, eff. September 1, 2005.

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

(1) "Eligible entity" means a political subdivision that has:

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

(i) outstanding long-term indebtedness;
(ii) long-term indebtedness proposed to be issued; or

(iii) a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

(B) outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

(2) "Eligible project" has the meaning assigned by Section 1371.001.

(3) "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

(b) This section prevails to the extent of any conflict between this section and:

(1) another law; or

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

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

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

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

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

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

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

- (1) an operation and maintenance expense of the eligible entity;
- (2) an acquisition expense of the eligible entity;
- (3) a project cost of an eligible project; or
- (4) a construction expense of the eligible entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 7, eff. June 14, 2017.

Sec. 2256.0207. AUTHORIZED INVESTMENTS: PUBLIC JUNIOR COLLEGE DISTRICT FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, the governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Added by Acts 2017, 85th Leg., R.S., Ch. 344 (H.B. 1472), Sec. 1, eff. September 1, 2017.

Redesignated from Government Code, Section 2256.0206 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(34), eff. September 1, 2019.

Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND PROCEEDS AND PLEDGED REVENUE. (a) In this section, "pledged revenue" means money pledged to the payment of or as security for:

- (1) bonds or other indebtedness issued by a local government;
- (2) obligations under a lease, installment sale, or other agreement of a local government; or
- (3) certificates of participation in a debt or obligation described by Subdivision (1) or (2).

(b) The investment officer of a local government may invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:

(1) statutory provisions governing the debt issuance or the agreement, as applicable; and

(2) the local government's investment policy regarding the debt issuance or the agreement, as applicable.

Added by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 4, eff. September 1, 2019.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b) and Section 2256.017, this subchapter does not:

- (1) prohibit an investment specifically authorized by other law; or
- (2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

- (1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;
- (2) an entity created under Chapter 392, Local Government Code; or
- (3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 3, eff. May 23, 2017.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.