

STATE OF TEXAS  
COUNTY OF RANDALL

IN THE COMMISSIONERS COURT  
OF RANDALL COUNTY

APRIL 30, 2019

RANDALL COUNTY COMMISSIONERS COURT RESOLUTION NUMBER 2019-17

COMMISSIONERS COURT ORDER RE:  
RANDALL COUNTY INVESTMENT POLICY

BE IT REMEMBERED AT A MEETING OF Commissioners Court of Randall County, Texas held on the 30th of April 2019, on a motion by Buddy DeFord, Commissioner of Precinct No. 4, and seconded by Mark Benton, Commissioner of Precinct No. 2, the following Order was adopted:

WHEREAS, the Commissioners Court has reviewed and adopted the investment policy and the investment strategy dated April 30th, 2019, which will be to the financial benefit of Randall County, Texas;

NOW, THEREFORE, it is hereby ADJUDGED and DECREED that the Randall County Treasurer, the investment officer, implements the attached investment policy and the investment strategy dated April 30th, 2019.

ORDERED THIS 30th Day of April 2019.

Ernie Houdashell

JUDGE ERNIE HOUDASHELL, COUNTY JUDGE

Christy Dyer

COMMISSIONER CHRISTY DYER, PRECINCT NO. 1

Mark C Benton

COMMISSIONER MARK BENTON, PRECINCT NO. 2

Bob Robinson

COMMISSIONER BOB ROBINSON, PRECINCT NO. 3

Buddy DeFord

COMMISSIONER BUDDY DEFORD, PRECINCT NO. 4

Susan B. Allen

COUNTY CLERK, SUSAN ALLEN



ATTESTED BY:

# INVESTMENT POLICY



RANDALL COUNTY  
TREASURER

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# PURPOSE

## **A. Formal Adoption**

This Investment Policy is authorized by the Randall County Commissioners' Court in accordance with Chapter 2256, Texas Government Code, the Public Funds Investment Act, and Section 116.112, Local Government Code. A copy of the most recent version of the Public Funds Investment Act is attached hereto and incorporated by reference.

## **B. Scope**

This Investment Policy applies to all of the investment activities of Randall County. This Policy establishes guidelines for 1) who can invest County funds, 2) how County funds will be invested, and 3) when and how a periodic review of investments will be made. In addition to this Policy, bond funds (as defined by the Internal Revenue Service) shall be managed in accordance with their issuing documentation and all applicable state and federal Law.

All investments made with County funds prior to the adoption of this Investment Policy shall be held or liquidated as determined by the Investment Committee to be in the best interest of the financial well being of the County. [Section 2256.017]

## **C. Review and Amendment**

This Policy shall be reviewed annually by the Commissioners' Court. Amendments must be approved by the Investment Committee and adopted by the Commissioners' Court. [Section 2256.005 (e)]

## **D. Investment Strategy**

In conjunction with the annual (April) Policy review, the Commissioners' Court shall review the separate written investment strategy for each of the County funds. The investment strategy must describe the investment objectives for each particular fund according to the following priorities: [Section 2256.005 (d) (1-6)]

- 1.investment suitability;
- 2.preservation and safety of principal;
- 3.liquidity;
- 4.marketability prior to maturity of each investment;
- 5.diversification; and
6. yield.

# INVESTMENT OBJECTIVES

## **General Statement**

Funds of the County will be invested in accordance with federal and state laws, this Investment Policy and written administrative procedures. The County will invest according to investment strategies for each fund as they are adopted by Commissioners' Court resolution. [Section 2256.005 (d) (2-3, 6)]

### **A. Safety of Principal**

The primary objective of all investment activity is the preservation of capital and the safety of principal in the overall portfolio. Each investment transaction shall first seek to ensure that capital losses are avoided, whether they be from security defaults or erosion of market value.

### **B. Maintenance of Adequate Liquidity**

The investment portfolio will remain sufficiently liquid to meet the cash flow requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturity with forecasted cash flow requirements; investing in securities with active secondary markets; and maintaining appropriate portfolio diversification.

### **C. Yield**

It will be the County's objective to maximize the rate of return or yield allowed on its investments within the policies imposed by safety and liquidity objectives, investment strategies for each group of funds and state and federal law governing investments of public funds.

# INVESTMENT POLICIES

## A. Authorized Investments

Investments described below are authorized by the Public Funds Investment Act as eligible securities for the County. County funds governed by this Policy may be invested in:

1. Obligations of the United States or its agencies and instrumentalities. [Section 2256.009 (a) (1)]
2. Direct obligations of the State of Texas, or its agencies and instrumentalities. [Section 2256.009 (a) (2)]
3. Other obligations, the principal and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas 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. [Section 2256.009 (a) (4)]
4. 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. [Section 2256.009 (a) (5)]
5. Certificates of deposit issued by state and national banks and savings and loan associations domiciled in Texas that are: [Section 2256.010 (a) (1-3)]
  - a. guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor; or, secured by obligations that are described by 1-4 above, which are intended to include all direct federal agencies that have a market value of not less than 110% of the principal amount of the certificates or in any other manner and amount provided by law for deposits of the County. [Section 2256.010 (a) (1-3)] ~~The County does not accept Adjustable Rate Mortgages (ARMs) or Collateralized Mortgage Obligations (CMOs) as collateral.~~
  - b. governed by Depository Agreement, as described in (B) (4) of this section, that complies with federal and state regulations to properly secure a pledged security interest; and,
  - c. solicited for bid orally, in writing, electronically, or any combination of those methods. [Section 2256.005 (c) (1-4)]
  - d. In addition to the authority to invest in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment if:
    1. the funds are invested by an investing entity through:

a. a broker that has its main office or a branch office in Texas and is selected from a list adopted by the County as required by Section 2256.025; or

b. a depository institution that has its main office or a branch office in Texas and that is selected by the County

2. the broker or the depository institution selected by the County under Subsection (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 County;

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 County appoints the depository institution selected by the County under Subsection (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 for the account of the County.

6. Money market mutual funds regulated by the Securities and Exchange Commission, with a dollar weighted average portfolio maturity of 90 days or less; that fully invest dollar-for-dollar all County funds without sales commissions or loads; and, whose investment objectives include seeking to maintain a stable net asset value of \$1 per share. The County may not invest funds under its control in an amount that exceeds 10% of the total assets of any individual money market mutual fund, excluding bond proceeds and reserves and other funds held for debt service in money market mutual funds. [Section 2256.014]
7. Eligible investment pools organized and operating in compliance with the Public Funds Investment Act that have been authorized by the Commissioners' Court; and whose investment philosophy and strategy are consistent with this Policy and the County's ongoing investment strategy. Disclosures must be submitted in compliance with Section 2256.0016.
8. Commercial Paper, that: [Section 2256.013]
  - a. is rated not less than A-1 (or its equivalent) by two nationally recognized rating agencies or one nationally recognized 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;
  - b. has a stated maturity not more than 270 days from date of purchase;
  - c. not more than \$1,000,000 invested in any single issuer credit by the County; and

d. not more than \$1,000,000 invested in the total investment portfolio of the County.

~~9. The County expressly prohibits any direct investment in asset or mortgage backed securities. The County expressly prohibits the acceptance for collateralized deposits, interest-only and principal-only mortgage backed securities and collateralized mortgage obligations with stated final maturities in excess of ten years or with coupon rates that float inversely to market index movements. [Section 2256.009 (b) (1-4)] The County expressly allows money market mutual funds and eligible investment pools, authorized by the Commissioners' Court, to invest to the full extent permissible within the Public Funds Investment Act.~~

~~409.~~ Letters of Credit, from Government Agencies as described and allowed under the Public Funds Investment Act, Section 2256.009.

~~4110.~~ ~~From the types of investments described and allowed for investments under the Public Funds Investment Act, Chapter 2256 of the Government Code, t~~The Commissioners Court of Randall County, Texas has determined the following types of investments will not be allowed for the direct investment or as collateral.

a. Fully collateralized repurchase agreements, as defined in the Public Funds Investment Act, Government Code Section 2256.011.

b. Guaranteed investment contracts, as defined in the Public Funds Investment Act, Government Code Section 2256.015.

c. Adjustable Rate Mortgages (ARMs) , Collateralized Mortgage Obligations (CMOs) or interest-only and principal-only mortgage backed securities.

## **B. Protection of Principal**

The County shall seek to control the risk of loss due to the failure of a security issuer or grantor. Such risk shall be controlled by investing only in the safest types of securities as defined in the Policy; by collateralization as required by law; and through portfolio diversification by maturity and type. [Section 2256.005 (b) (2-3)]

All purchased securities shall be held in safekeeping by the County, or a County account in a third party financial institution, or with a Federal Reserve Bank. All certificates of deposit, insured by FDIC or NCUSIF, purchased outside the depository bank shall be held in safekeeping by either the County or a County account in a third party financial institution.

All investments except PFIA investment pools, or operating investments, shall be purchased using the "delivery versus payment" (DVP) or cash methods at approved financial institutions. With either method, County funds are not released until the County, or custodian on behalf of the County, has received, the securities purchased. [Section 2256.005 (b) (4) (E)]

### **1. Diversification by Investment Type**



Diversification by Investment type shall be maintained by ensuring an active and efficient secondary market in portfolio investments and by controlling the market and opportunity risks associated with specific investment types. It is the County's policy to diversify its portfolio to reduce the risk of loss resulting from the concentration of assets in a specific maturity (except zero duration funds), a specific issuer, or a specific class of investments. County investments shall always be selected to proven stability of income and reasonable liquidity. [Section 2256.005 (d) (5)]

Bond proceeds may be invested in a single security or investment if the Investment Committee determines that such an investment is necessary to comply with federal arbitrage restrictions or to facilitate arbitrage record keeping and calculation.

**2. Diversification by Investment Maturity**

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Maturity guidelines by fund are as follows: (Investment transactions made prior to the adoption of this Policy are not subject to these guidelines).

a. Operating Funds

The weighted average days to maturity for the operating fund portfolio shall be less than 270 days and the maximum allowable maturity shall be no longer than two years and consistent with cash flow projections from each department not longer than two years. This applies to operating funds from all sources traditionally associated with County government which are not legally to be accounted for in another fund.

b. Surplus Funds

Monies not expended during a budget year but retained to meet future needs will have a maturity of no more than three years.

c. Construction and Capital Improvement Funds

The investment maturity of construction and capital improvement funds shall generally be limited to the anticipated cash flow requirement or the "temporary period," as defined by federal tax law. During the temporary period, bond proceeds may be invested at an unrestricted yield. After the expiration of the temporary period, bond proceeds subject to yield restriction shall be invested considering the anticipated cash flow requirements of the funds and market conditions to achieve compliance with the applicable regulations. The maximum maturity for all construction or capital improvement funds shall not be more than five years.

d. Debt Service Funds

Debt Service Funds shall be invested to ensure adequate funding for each consecutive debt service payment. The Investment Officers shall invest in such a manner as not to exceed an "unfunded" debt service date

with the maturity of any investment. An unfunded debt service date is defined as a coupon or principal payment date that does not have cash or investment securities available to satisfy said payment.

County funds that are considered “bond proceeds” for arbitrage purposes will be invested using a more conservative approach than the standard investment strategy when arbitrage rebate rules require refunding excess earnings. All earnings in excess of the allowable arbitrage earnings (“rebate liability”) will be segregated and made available for any necessary payments to the U.S. Treasury. The maximum maturity must not exceed one year.

e. **Special Revenue Funds**

Special revenue funds are legally restricted to expenditures for a particular purpose under the direction of a certain department. They may be invested in compliance with this Policy and all applicable laws, subject to cash flow requirements with maximum maturity not to exceed two years.

f. **Registry and State Agency Funds**

Registry and State Agency Funds are held by the County in a trustee capacity. All funds will be invested in compliance with the Public Funds Investment Act and the County’s Investment Policy, except when a court order is issued to follow a different procedure. Agency funds are to be invested not to exceed 90 days. Registry maturity funds are not to exceed court order limits.

**3. Ensuring Liquidity**

Liquidity shall be achieved by anticipating cash flow requirements of the County consistent with the objectives of this Policy through scheduled maturity of investments. A security may be liquidated to meet unanticipated cash requirements to re-deploy cash into other investments expected to outperform current holdings, or otherwise to adjust the portfolio.

**4. Depository Agreements**

Consistent with the requirements of state law, the County requires all bank and savings and loan association deposits to be federally insured or collateralized with eligible securities. Financial institutions serving as county depositories will be required to sign a Depository Agreement with the County and the County’s safekeeping agent. The safekeeping portion of the Agreement shall define the County’s rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with federal and state regulations, including:

- The Agreement must be in writing;

- The Agreement has to be executed by the Depository and the County contemporaneously with the acquisition of the asset;
  - The Agreement must be approved by the Board of Directors or the loan committee of the Depository;
  - The Agreement must be part of the Depository's "official record" continuously since its execution.
- a. Allowable Collateral
- Eligible securities for collateralization of deposits are defined by the Public Funds Collateral Act, as amended and meet the general constraints of this Policy.
- b. Collateral Levels
- To compensate for increase or decrease in County deposits and fluctuation of market value of pledged collateral; the minimum market value of collateral will be 110% of County deposits. Deposits include: time deposits, interest bearing checking accounts, certificates of deposits, accrued interest and any other instrument deposited into County funds. The depository institution will daily monitor pledged collateral to ensure sufficient collateral to be in compliance with this Policy.
- c. Monitoring Collateral Adequacy
- The county shall require monthly reports with market values of pledged securities from all financial institutions with which the County has collateralized deposits. The Investment Officers will monitor adequacy of collateralized levels to verify market values and total collateral positions.
- d. Security Substitution
- Collateralized deposits often require substitution of securities. Any financial institution requesting substitution must contact the Investment Officer for approval and settlement. The substituted security's value will be calculated and substitution approved if the substitution maintains a pledged value equal to or greater than the required security level. An Investment Officer must provide written notification of the decision to the bank or the safekeeping agent holding the security prior to any security release. Substitution is allowable for all transactions, but should be limited, if possible, to minimize potential administrative problems and transfer expenses. The Investment Officer may limit substitution and assess appropriate fees if substitution becomes excessive or abusive.

## **5. Safekeeping**

- a. Safekeeping Agreement

The county shall contract with a bank or banks for the safekeeping of securities either owned by the County as a part of its investment portfolio or as part of its depository agreements.

- b. Safekeeping of Deposit Collateral  
All collateral securing bank and savings and loan deposits must be held by a third-party banking institution acceptable to and under contract with the County or by the Federal Reserve Bank.

**C. Investment Advisors and Investment Providers**

Investment Advisors shall adhere to the spirit, philosophy and specific term of this Policy and shall invest within the same “Standard of Care.”

Investment Providers shall adhere to the spirit and philosophy of this Policy and shall avoid recommending or suggesting transactions outside that “Standard of Care.”

Selection of Investment Advisors and Investment Providers will be performed by the Investment Officers. The Investment Officer will establish criteria to evaluate Investment Advisors and Investment Providers, including:

- a. Adherence to the County's policies and strategies,
- b. Investment performance and transaction pricing within accepted risk constraints,
- c. Responsiveness to the county's request for services, information and open communication,
- d. Understanding of the inherent fiduciary responsibility of investing public funds, and
- e. Similarity in philosophy and strategy with the County's objectives.

Selected Investment Advisors and Investment Providers shall provide timely transaction confirmations and monthly activity reports.

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, “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 County'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: [Section 2256.005 (k)]

- a. Received and reviewed the investment policy of the entity; and

- b. 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 is dependent on an analysis of the makeup of the entity's entire portfolio requires an interpretation of subjective investment standards; or 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.

The County shall not enter into an investment transaction with a business organization prior to receiving the written instrument signed by the qualified representative described above. [Section 2256.00 5 (l)]

Along with the signed affidavit, the business organization shall supply the County with the following:

- a. Proof of institutional investment experience and fund investment officers.
- b. Proof of membership in good standing in the National Association of Securities, Inc.

At least on an annual basis, the Investment Committee or Commissioners' Court shall review, revise and adopt a list of qualified brokers that are authorized to engage in investment transactions with Randall County. The list of qualified brokers will be provided to the Commissioners' Court. [Section 2256.025]

#### **D. Responsibility and Controls**

##### **1. Authority to Invest**

The County Judge (Chairman), County Treasurer (Chief Investment Officer), two outside investment advisors (not associated with any Randall County investments) and one County Commissioner (selected by the Commissioners' Court) are the "Investment Officers" of the County. Acting as a committee, the Investment Officers are authorized to advise the County Treasurer as Chief Investment Officer to deposit, withdraw, invest, transfer, execute documentation, and otherwise manage County funds according to this Policy. The Investment Officers may authorize one Investment Officer to deposit, withdraw or transfer funds out of or into an investment pool or money market mutual fund in order to meet daily operating needs of the County. The governing body of the County retains ultimate responsibility as fiduciaries of the assets of the County. [Section 2256.005 (f)]

The Investment Officers shall be the Investment Committee. The Investment Committee shall review the investment portfolio's status and performance to determine and implement appropriate portfolio adjustments, oversee the County's Investment Advisor, monitor compliance with the Investment Policy and Investment Strategy Statement, and perform other duties as necessary to manage the County's Funds.

The investment officers, Treasurer and appointed Commissioner representative of the Investment Committee shall attend at least 15 hours of investment training within 12 months after taking office or assuming duties; and, attend not less than once in a two

year period and receive not less than 15 hours of instruction relating to investment responsibilities each year thereafter. Volunteer citizens are not required to have annual education. The training provider must be an independent source approved by the Commissioners' Court. [Section 2256.008]

## **2. Prudent Investment Management**

The designated Investment Officers shall perform their duties in accordance with the adopted Investment Policy and internal procedures. In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the investment of all funds over which the Investment Officer had responsibility; rather than the prudence of a single investment shall be considered. Investment Officers acting in good faith and in accordance with these policies and procedures shall be relieved of personal liability. [Section 2256.006]

## **3. Standard of Care**

The standard of care used by the County shall be the "prudent investor rule" and shall be applied in the context of managing the overall portfolio within the applicable legal constraints. The Public Funds Investment Act states:

"Investments shall be made with judgment and care, under circumstances then prevailing, 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." [Section 2256.006]

## **4. Standard of Ethics**

The designated Investment Officers shall act as custodians of the public trust, avoiding any transaction which might involve a conflict of interest, the appearance of a conflict of interest, or any activity which might otherwise discourage public confidence. Investment Officers shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Additionally, all Investment Officers shall file with the Texas Ethics Commission and the County a statement disclosing any personal business relationship with an entity seeking to sell an investment to the County or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the County. [Section 2256.005 (i)]

## **5. General Reporting**

The County, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the County's Investment Policy and Investment Strategy Statement. [Section 2256.005 (m)]

## **6. Investment Officers Reporting and Authority**

To facilitate timely investment of funds and obtain the earnings, the designated investment officers may invest the funds in the types of investments and manner specified by this policy, subject to the responsibilities and authority, standard of care, and other requirements set forth in this policy. Responsibilities and authority include:

- a. Prepare an Investment Report monthly for the Commissioners Court to include both book value and market value of each investment. This report should include a report detailing the investment position of Randall County that complies with The Texas Public Funds Investment Act, section 2256.023, Internal Management Reports.
- b. Prepare a report of all investments made (or re-invested) and matured since the previous reporting period to include broker/dealer quotes.
- c. Determine the funds reasonably available for investment.
- d. Determine the maturity dates of investments that are consistent with the cash flow needs for continuing operations.
- e. Determine the types of investments that will yield the greatest earnings consistent with the investment policy objectives and priorities.
- f. Purchase, or otherwise, make the actual investments for Randall County.
- g. Monitor the market price of investments acquired for the County.
- h. Endeavor to ensure that all funds in Randall County's Depository Institution are properly collateralized by Collateralized Securities that are allowable instruments under the Public Funds Investment Act, other state and federal law, and consistent with the requirements of this investment policy.
- i. Endeavor to ensure that all collateral securities (securities pledged by depository institutions) and investment securities are protected by the safekeeping requirements found in this policy.
- j. Monitor pledged securities of the Bank Depository Contract or investments and endeavor to aid the Commissioners' Court in maintaining prudent collateralization of Randall County deposits and investments.

**7. Personal/business relationships will be subject to these disclosure rules:**

- a. An investment officer of the County who has a personal business relationship with an entity seeking to sell an investment to the County shall file a statement disclosing that personal business interest.
- b. A statement required under this policy must be filed with the Texas Ethics Commission and the Randall County Commissioners' Court.

**8. Liability**

Liability for loss of the county's funds shall not accrue to any County Investment Officer through the failure or negligence or any depository, nor any loss resulting from the fluctuations in market value of investments or collateral security.

**9. Approval of brokers / dealers**

The Randall County Commissioners' Court shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with Randall County.

A written copy of this investment policy shall be presented to any person seeking to be placed on Randall County's list of qualified brokers. The registered principal of the business organization seeking to sell an authorized investment shall execute a written instrument substantially to the effect that the registered principal has:

- a. Received and thoroughly reviewed the investment policy of the entity; and
- b. Acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between Randall County and the organization.
- c. Agree to maintain all information necessary (such as CUSIP numbers) to provide the market price of all investments, and to relay that information to the Randall County Treasurers Office by the 5th calendar day of each month at no additional cost to Randall County.

Only broker/dealers who have delivered an instrument in substantially the form described above (or the form supplied by Randall County) shall be eligible to be placed on the list of approved broker/dealers.



# INVESTMENT STRATEGY STATEMENT

It is the policy of Randall County that, giving due regard to the safety and risk of investment, all available funds shall be invested in conformance with State and Federal Regulations, applicable Bond Resolution requirements, adopted Investment Policy, and adopted Investment Strategy.

In accordance with the Public Funds Investment Act, County investment strategies shall address the following priorities (in order of importance):

- **Understanding the suitability of the investment to the financial requirements of the County;**
- **Preservation and safety of principal;**
- **Liquidity;**
- **Marketability of the investment prior to maturity;**
- **Diversification of the investment portfolio; and**
- **Yield.**

Effective investment strategy development coordinates the primary objectives of the County's Investment Policy and cash management procedures to enhance interest earnings and reduce investment risk. Aggressive cash management will increase the available "investment period" and subsequently interest earnings. Maturity selections shall be based on cash flow and market conditions to take advantage of various interest rate cycles. The County's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with the Investment Policy.

Each major fund type has varying cash flow requirements and liquidity needs. Therefore, specific strategies shall be implemented considering the fund's unique requirements. County funds shall be analyzed and invested according to the following major fund types

- **Operating Funds**
- **Construction and Capital Improvement Funds**
- **Debt Service Funds**
- **County Investment Pool**
- **Current Investment Pool**

## INVESTMENT STRATEGY

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Investment guidelines by fund-type are as follows:

### OPERATING FUNDS

**Suitability** – Any investment eligible in the Investment Policy is suitable for the Operating Funds.

**Safety of Principal** – All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will, however, occur. By managing the weighted average days to maturity for the Operating Fund portfolio to less than 270 days and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be minimized.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement. Historical market “spreads” between the bid and offer prices of a particular security type of less than a quarter of a percentage point shall define an efficient secondary market.

**Liquidity** – The Operating Fund requires the greatest short-term liquidity of any of the fund types. Short-term investment pools and money market mutual funds shall provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

**Diversification** – Investment maturities shall be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the County. Market cycle risk will be reduced by diversifying the appropriate maturity structure out through the two years.

**Yield** – Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted rolling three-month Treasury bill portfolio shall be the minimum yield objective.

### CONSTRUCTION AND CAPITAL IMPROVEMENT FUNDS

**Suitability** – Any investment eligible in the Investment Policy is suitable for the Construction and Capital Improvement Funds.

**Safety of Principal** – All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will, however, occur. By managing the Construction and Capital Improvement Fund’s portfolio to exceed the anticipated expenditure schedule the market risk of the overall portfolio will be minimized.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement. Historical market “spreads” between the bid and offer prices of a particular security type of less than a quarter of a percentage point shall define an efficient secondary market.

**Liquidity** – County funds used for Construction and Capital Improvement programs have reasonably predictable draw down schedules. Therefore, investment maturities shall generally follow the anticipated cash requirements. Investment pools and money market mutual funds shall provide readily available funds generally equal to one month’s anticipated cash flow needs,

or a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request, this investment structure is commonly referred to as a flexible repurchase agreement.

**Diversification** – Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds and other construction and capital improvement funds. With bond proceeds, if investment rates exceed the applicable arbitrage yield, the County is best served by locking in most investments. If the arbitrage yield can not be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger lumps. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield with any County funds.

**Yield** – Achieving a positive spread to the applicable arbitrage yield is the desired objective for bond proceeds. Non-bond priced constructions and capital improvement project funds will target a rolling portfolio of six month Treasury bills.

## **DEBT SERVICE FUNDS**

**Suitability** – Any investment eligible in the Investment Policy is suitable for the Debt Service Funds.

**Safety of Principal** – All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will, however, occur. By managing the Debt Service Fund's portfolio to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

**Marketability** – Securities with active and efficient secondary markets are not necessary, as the event of an unanticipated cash requirement is not probable.

**Liquidity** – Debt Service Funds have predictable payment schedules. Therefore, investment maturities shall not exceed the anticipated cash flow requirements. Investment pools and money market mutual funds shall provide a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

**Diversification** – Market conditions influence the attractiveness of fully extending maturity to the next "unfunded" payment date. Generally, if investment rates are trending down, the County is best served by locking in most investments. If interest rates are flat or trending up, then concurrent market conditions will determine the attractiveness of extending maturity or investing in shorter alternatives. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

**Yield** – Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted rolling three-month Treasury bill portfolio shall be the minimum yield objective.

## COUNTY INVESTMENT POOL

**Suitability** – Any investment eligible in the Investment Policy is suitable for the County Investment Pool.

**Safety of Principal** – All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will, however, occur. By managing the County Investment Pool so that the weighted average days to maturity is less than 270 days and restricting the maximum allowable maturity to two years, the price volatility and the market risk of the overall portfolio will be minimized.

**Marketability** – Securities marketability shall be maintained by ensuring an active and efficient secondary market in portfolio investments and by controlling the market and opportunity risks associated with specific investment types.

**Liquidity** – Liquidity shall be achieved by anticipating cash flow requirements of the County consistent with the objectives of the investment policy and the intent of the departments contributing funds to the County Investment Pool. Through scheduled maturity and investments liquidity will be achieved.

**Diversification** – Investment maturities shall be staggered to provide cash flow based on the anticipated needs of the County and provide reasonable liquidity. It is the policy of the County to diversify its portfolio to eliminate the risk of loss from over concentration of assets in a specific maturity, a specific issuer, or a specific class of investments.

**Yield** – It will be the objective of the County to earn the maximum rate of return allowed on its investments within the Investment policy guidelines and state and federal law governing investment of public funds. The yield of an equally weighted, three-month Treasury bill portfolio shall be the minimum yield objective.

## CURRENT INVESTMENT POOL Ending February 28, 2019

Purchase Date	Security	Coupon or Avg Rate	Maturity Date	Yield	Par	Price	Days to Maturity	Beginning Book	Beginning Market	Ending Book	Ending Market	Period Earnings	Est. Annual Income
Bank Checking Accounts													
	ANB Clearing Acct	0		2.39%	\$31,006,095	\$100		\$25,866,120	\$25,866,120	\$31,006,095	\$31,006,095	\$61,765	\$400,000
Subtotal Bank Accounts													
Certificates of Deposit													
8/23/2017	Goldman Sachs Bank	100	2/22/2019	1.60%	\$250,000	\$100	\$22	\$250,000	\$249,910	\$0	\$0	\$2,005	\$4,000
1/31/2019	Community Nat'l Bank	100	7/31/2019	2.35%	\$250,000	\$100	\$181	\$250,000	\$249,938	\$250,000	\$250,013	\$0	\$5,875
2/14/2019	Pinnacle Bank Nashville	100	8/14/2019	2.35%	\$250,000	\$100	\$195	\$0	\$0	\$250,000	\$250,003	\$225	\$5,875
1/4/2019	Pilot Bank Tampa	100	11/4/2019	2.60%	\$248,000	\$100	\$277	\$248,000	\$248,223	\$248,000	\$248,345	\$424	\$6,448
12/14/2018	Affinity Fed CU	100	12/13/2019	3.00%	\$250,000	\$100	\$316	\$250,000	\$251,025	\$250,000	\$251,098	\$1,562	\$7,500
12/15/2017	First Technology Fed Cr Union	100	12/16/2019	2.00%	\$250,000	\$100	\$319	\$250,000	\$248,883	\$250,000	\$249,158	\$178	\$5,000
1/11/2019	Luana Svgs Bank Iowa	100	1/10/2020	2.55%	\$245,000	\$100	\$344	\$245,000	\$244,875	\$245,000	\$245,042	\$822	\$6,248
3/1/2018	Discover Bank	100	3/2/2020	2.35%	\$245,000	\$100	\$396	\$245,000	\$244,424	\$245,000	\$244,596	\$2,839	\$5,758
3/29/2018	Stifel Bank & Trust	100	3/30/2020	2.55%	\$248,000	\$100	\$424	\$248,000	\$247,898	\$248,000	\$248,050	\$0	\$6,324
5/30/2018	Central State Bank	100	4/30/2020	2.50%	\$248,000	\$100	\$455	\$248,000	\$247,685	\$248,000	\$247,866	\$0	\$6,200
5/9/2018	Garrett State Bank	100	5/11/2020	2.55%	\$248,000	\$100	\$466	\$248,000	\$247,814	\$248,000	\$247,993	\$329	\$6,324
12/28/2018	Firstbank Puerto Rico	100	6/29/2020	2.85%	\$248,000	\$100	\$515	\$248,000	\$248,734	\$248,000	\$248,883	\$0	\$7,068
1/17/2019	Patriot Bank, NA	100	7/17/2020	2.60%	\$245,000	\$100	\$533	\$245,000	\$244,836	\$245,000	\$245,042	\$733	\$6,370
5/11/2018	Mid America Bank	100	8/11/2020	2.55%	\$248,000	\$100	\$558	\$248,000	\$247,588	\$248,000	\$247,829	\$295	\$6,324
5/29/2018	Independent Bank	100	9/29/2020	2.60%	\$248,000	\$100	\$607	\$248,000	\$247,645	\$248,000	\$247,911	\$0	\$6,448
4/11/2018	Jefferson Bank & Trust	100	10/12/2020	2.50%	\$245,000	\$100	\$620	\$245,000	\$244,206	\$245,000	\$244,495	\$2,349	\$6,125
5/16/2018	CommunityBank of Texas	100	11/16/2020	2.70%	\$248,000	\$100	\$655	\$248,000	\$247,940	\$248,000	\$248,211	\$220	\$6,696
12/7/2017	Ally Bk Midvale Utah	100	12/7/2020	2.10%	\$250,000	\$100	\$676	\$250,000	\$247,185	\$250,000	\$247,593	\$1,194	\$5,250
1/8/2019	USNY Bank Geneva NY	100	1/8/2021	2.85%	\$245,000	\$100	\$708	\$245,000	\$245,483	\$245,000	\$245,772	\$976	\$6,983
5/25/2018	1st Source Bank South	100	2/25/2021	2.75%	\$245,000	\$100	\$756	\$245,000	\$244,902	\$245,000	\$245,243	\$1,778	\$6,738
3/1/2018	Morgan Stanley Bank	100	3/2/2021	2.60%	\$245,000	\$100	\$761	\$245,000	\$244,150	\$245,000	\$244,525	\$3,141	\$6,370
3/29/2018	Citibank Nat'l Assn	100	3/29/2021	2.70%	\$245,000	\$100	\$788	\$245,000	\$244,552	\$245,000	\$244,939	\$2,755	\$6,615
4/11/2018	Wells Fargo Bank	100	4/12/2021	2.75%	\$248,000	\$100	\$802	\$248,000	\$247,764	\$248,000	\$248,164	\$318	\$6,820
5/9/2018	ConnectOne Bank	100	5/10/2021	2.85%	\$248,000	\$100	\$830	\$248,000	\$248,223	\$248,000	\$248,637	\$368	\$7,068
5/30/2018	Webbank Salt Lake City	100	5/28/2021	3.00%	\$245,000	\$100	\$848	\$245,000	\$245,480	\$245,000	\$245,399	\$1,812	\$7,350
5/30/2018	UBS Bank Salt Lake	100	6/1/2021	2.85%	\$248,000	\$100	\$852	\$248,000	\$248,164	\$248,000	\$248,605	\$0	\$7,068
12/21/2018	Keesler Federal CU	100	6/21/2021	3.15%	\$248,000	\$100	\$872	\$248,000	\$249,825	\$248,000	\$250,237	\$150	\$7,812
7/10/2018	American Express Natl Bank	100	7/12/2021	3.00%	\$248,000	\$100	\$893	\$248,000	\$248,915	\$248,000	\$249,381	\$999	\$7,440
7/13/2018	BMW Bank North America	100	7/13/2021	3.00%	\$248,000	\$100	\$894	\$248,000	\$248,913	\$248,000	\$249,379	\$938	\$7,440
8/22/2018	US Alliance Federal CU	100	8/20/2021	3.00%	\$248,000	\$100	\$932	\$248,000	\$248,836	\$248,000	\$249,357	\$122	\$7,440
8/31/2018	Peoples Sec Bank & Trust	100	8/31/2021	3.05%	\$245,000	\$100	\$943	\$245,000	\$245,071	\$245,000	\$245,157	\$0	\$7,473
12/14/2018	BMO Harris Bank Natl	100	9/14/2021	3.20%	\$250,000	\$100	\$957	\$250,000	\$250,725	\$250,000	\$250,585	\$1,644	\$8,000
12/21/2018	JP Morgan Chase Bank	100	12/21/2021	3.25%	\$250,000	\$100	\$1,055	\$250,000	\$251,643	\$250,000	\$251,650	\$1,536	\$8,125
12/28/2018	Bar Harbor Bank & Trust	100	12/28/2021	3.00%	\$248,000	\$100	\$1,062	\$248,000	\$248,471	\$248,000	\$249,180	\$0	\$7,440
1/18/2019	Summit Community Bank	100	1/18/2022	2.75%	\$248,000	\$100	\$1,083	\$248,000	\$246,641	\$248,000	\$247,430	\$187	\$6,820
2/1/2019	Main Street Bank Corp	100	2/1/2022	2.95%	\$245,000	\$100	\$1,097	\$0	\$0	\$245,000	\$245,760	\$535	\$7,228
Subtotal CD's													
								\$8,416,000	\$8,416,567	\$8,661,000	\$8,671,521	\$30,433	\$240,060
Texpool		100		2.21%	n/a	\$100	\$1	\$112,110	\$112,110	\$112,316	\$112,316	\$206	\$2,000
Texas Class		100		2.50%	n/a	\$100	\$1	\$12,455,745	\$12,455,745	\$12,480,937	\$12,480,937	\$25,191	\$200,000
Subtotal Pools													
								\$12,567,855	\$12,567,855	\$12,593,253	\$12,593,253	\$25,398	\$202,000
<b>Totals</b>								<b>\$46,849,975</b>	<b>\$46,850,543</b>	<b>\$52,260,348</b>	<b>\$52,270,869</b>	<b>\$117,596</b>	<b>\$842,060</b>

GOVERNMENT CODE  
CHAPTER 2256  
PUBLIC FUNDS INVESTMENT ACT

**SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES**

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

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

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 1, eff. Sept. 1, 1999.

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, § 2, eff. Sept. 1, 1999.

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, § 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, § 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, § 3, eff. Sept. 1, 1999. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 1, eff. June 14, 2014.

**§ 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, § 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, § 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.~~

~~(e) 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, § 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, § 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, § 41, eff. Sept. 1, 2003. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 1, eff. June 17, 2011. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 149 (H.B. 1701), Sec. 1, eff. September 1, 2017.

#### **§ 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, § 1, eff. Sept. 1, 1995.

#### **~~§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, § 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, § 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 5, eff. Sept. 1, 1999. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 2, eff. June 17, 2011.~~

#### **§ 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.**

- (a) Except as provided by Subsections (b) and (e), 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.

- (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.
- (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.

Amended by Acts 1995, 74th Leg., ch. 402, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, § 4, eff. May 14, 2001. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 3, eff. June 17, 2011. Acts 2015, 84<sup>th</sup> Leg., R.S., Ch. 1248 (H.B. 870), § 1, eff. September 1, 2015.

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, § 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, § 1, eff. Sept. 1, 2001. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 4, eff. June 17, 2011. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 2 eff. June 14, 2017. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 863 (H.B. 2647), Sec. 1, eff. June 15, 2017. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 874 (H.B. 2928), Sec. 1, eff. September 1, 2017.

**§ 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, § 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 6, eff. Sept. 1, 1997. Acts 2005, 79<sup>th</sup> Leg., Ch. 128 (H.B. 256), § 1,

eff. September 1, 2005. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 5, eff. June 17, 2011. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 874 (H.B. 2928), Sec. 2, eff. September 1, 2017.

**§ 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); and
  - (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), 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, 74<sup>th</sup> Leg., ch. 402, § 1, eff. Sept. 1, 1995. Acts 2011, 82<sup>nd</sup> Leg., R.S., h. 1004 (H.B. 2226), § 6, eff. June 17, 2011. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 3, eff. June 14, 2017.

**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, § 1, eff. Sept. 1, 2003.

**§ 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, § 1, eff. Sept. 1, 1995.

**§ 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 270 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, § 1, eff. Sept. 1, 1995.

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 8, eff. Sept. 1, 1999. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 4, eff. June 14, 2017.

**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, § 9, 10, eff. Sept. 1, 1999. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 5, eff. June 14, 2017.

**§ 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 safe keep 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, "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, a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places. 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, the governing body of the public funds investment pool shall 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. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool that uses amortized cost shall 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, § 9, eff. Sept. 1, 1997. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 7, eff. June 17, 2011. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 773 (H.B. 1003), Sec. 6, eff. June 14, 2017.



**§ 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, § 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, § 10, eff. Sept. 1, 1997. Acts 2017, 85<sup>th</sup> Leg., R.S., Ch. 96 (S.B., 253), Sec. 2, eff. May 23, 2017.

**§ 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, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, § 11, eff. Sept. 1, 1997.

Amended by: Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 8, eff. June 17, 2011.

~~**§ 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, § 1, eff. Sept. 1, 1995.~~

~~**§ 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, § 48, eff. Sept. 1, 1999. Acts 2007, 80<sup>th</sup> Leg., R.S., Ch. 7, § 1, eff. April 13, 2007.~~

~~**§ 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, § 1, eff. Sept. 1, 2005.~~

**§ 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, § 1, eff. Sept. 1, 1995.

**§ 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, § 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, § 42, eff. Sept. 1, 2003.

**§ 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, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, § 12, eff. Sept. 1, 1997. Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. 1004 (H.B. 2226), § 9, eff. June 17, 2011.

**§ 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, § 1, eff. Sept. 1, 1995. Amended by: Acts 2017, 85<sup>th</sup> Leg., Ch. 96 (S.B. 253), Sec. 3, eff. May 23, 2017.

**§ 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, § 13, eff. Sept. 1, 1997.

**§ 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, § 13, eff. Sept. 1, 1997.

## **SUBCHAPTER B. MISCELLANEOUS PROVISIONS**

**§ 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, § 1, eff. Sept. 1, 1995.

~~**§ 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, § 1, eff. Sept. 1, 1995.~~

~~**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1~~

~~**§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, § 8.68, eff. Sept. 1, 1997.~~

~~§ 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, § 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, § 8.69, eff. Sept. 1, 1997.~~

### ~~SUBCHAPTER C. PAYMENT FOR AND DELIVERY AND DEPOSIT OF SECURITIES PURCHASED BY STATE~~

~~Subchapter C was deleted and moved to Subchapter B — § 2256.053 — § 2256.55 by the State of Texas, eff. Sept. 1, 1997.~~

AUTHORIZED BROKERS AND  
FINANCIAL INSTITUTIONS  
RANDALL COUNTY, TX

Authorized financial institutions:

1. Amarillo National Bank – depository bank
2. Multi-Bank Securities

Authorized pools:

1. TexPool
2. Texas Class

Approved brokers:

1. Fernando Pulido

Approved custodial banks:

1. Pershing LLC/Bank of New York Mellon