

BILL ANALYSIS

Senate Research Center

H.B. 2770
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The economic stabilization fund (ESF), commonly referred to as the "Rainy Day Fund," was approved by the voters in 1988. The fund receives 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal year 1987. In addition, the comptroller of public accounts of the State of Texas (comptroller) is required to transfer one-half of any unencumbered balance remaining in the general revenue fund at the end of a biennium to the ESF, and the amount in the ESF cannot exceed 10 percent of the total amount of general revenue income during the preceding biennium.

Currently, money in the ESF is held in highly liquid, low-yield assets. Managed by the Texas Treasury Safekeeping Trust Company, the ESF has yielded returns ranging from 0.5 percent in one year to 1.49 percent over five years. The unintended consequence of this strategy is the loss of the ESF's purchasing power. Currently, the treasury pool returns are lower than the rate of inflation.

With the ESF balance expected to reach \$12 billion by the end of the biennium, there is ample money in short-term assets to meet emergency needs. H.B. 2770 proposes to change the ESF investment strategy in order to ensure that it is prudently managed. It stipulates that the comptroller shall leave an amount equal to 30 percent of the constitutional limit of the ESF invested in accordance with current requirements. The remaining fund balance will be invested more freely, but only to the extent that the investments comply with the "prudent investor standard" as provided in Section 404.024(j), Government Code. In addition, H.B. 2770 requires the comptroller to conduct a study of potential costs and benefits of investing a portion of the ESF in precious metals stored in Texas.

H.B. 2770 amends current law relating to the investment of a portion of the economic stabilization fund balance.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 404, Government Code, by adding Section 404.0241, as follows:

Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC STABILIZATION FUND BALANCES. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to invest the balance of the economic stabilization fund that exceeds an amount equal to 30 percent of the maximum authorized balance of the fund for the applicable state fiscal biennium as prescribed by Section 49-g(g) (relating to prohibiting the amount in the economic stabilization fund from exceeding an amount equal to 10 percent of the total amount, excluding certain amounts, of the amount deposited in the general revenue fund during the preceding biennium), Article III, Texas Constitution, in accordance with the investment standard described by Section 404.024(j) (relating to requiring the comptroller by law to invest funds other than as provided by this section).

Provides that the comptroller's investment of that excess balance is not subject to any other limitation or other requirement provided by Section 404.024 (Authorized Investments).

(b) Requires the comptroller to adjust the investment portfolio of economic stabilization fund money periodically to ensure that, as appropriated money is withdrawn or money is otherwise transferred from the fund or as the maximum authorized balance of the fund as prescribed by Section 49-g(g), Article III, Texas Constitution, changes, only the balance of the fund that exceeds the amount specified by Subsection (a) is invested in a manner that does not comply with all limitations and other requirements of Section 404.024.

SECTION 2. (a) Requires the comptroller to conduct a study of the potential costs and benefits of investing, as provided by Section 404.0241, Government Code, as added by this Act, or of investing under an alternative method as the comptroller may propose, a portion of the economic stabilization fund in precious metals stored in this state. Requires the comptroller to report the findings and conclusions of the study to the legislature not later than August 31, 2014.

(b) Requires the comptroller, in conducting the study under Subsection (a) of this section, to include the comptroller's analysis of the costs and benefits of the following scenarios for managing the storage of precious metals in which economic stabilization fund money is invested:

- (1) establishing and operating a state depository for precious metals;
- (2) establishing and operating a state depository for precious metals with private depository agents regulated by this state;
- (3) establishing and operating several state depositories for precious metals;
- (4) establishing and operating several state depositories for precious metals with private depository agents regulated by this state; and
- (5) using an established network of private depository agents with regulatory oversight conducted by this state.

SECTION 3. Effective date: upon passage or September 1, 2013.