

BILL ANALYSIS

Senate Research Center
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S.B. 116
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Finance
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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 0.38 percent in one year to 0.70 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 \$11.073 billion by the end of the 2016-2017 biennium, there is ample money in short-term assets to meet emergency needs. S.B. 116 proposes to change the ESF's investment strategy to authorize investments that increase the fund's earnings potential. The bill requires that the comptroller leave an amount equal to 30 percent of the constitutional limit of the ESF invested in accordance with current requirements and that the fund balance in excess of 30 percent be invested using the "prudent investor standard." This change would enable the fund to earn higher returns.

As proposed, S.B. 116 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 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) (prohibiting the amount in the economic stabilization fund, during each fiscal biennium, from exceeding an amount equal to 10 percent of the total amount, excluding investment income, interest income, and amounts borrowed from special funds, deposited in general revenue during the preceding biennium), Article III, Texas Constitution, in accordance with the investment standard described by Section 404.024(j) (requiring the comptroller to invest certain funds under the restrictions and procedures for making the investments that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the prevailing circumstances, would follow in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds,

considering the probable income as well as the probable safety of their capital, if the comptroller is required by law to invest funds other than as provided by this section, and if other law does not establish a conflicting standard governing that investment). 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. Effective date: upon passage or September 1, 2015.