

## **BILL ANALYSIS**

Senate Research Center  
84R14026 KLA-D

H.B. 903  
By: Capriglione et al. (Taylor, Van)  
Finance  
4/30/2015  
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 0.38 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. H.B. 903 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. That fund balance in excess of 30 percent will be invested using the "prudent investor standard." This change would enable the fund to earn higher returns.

H.B. 903 amends current law relating to the investment of a percentage of the economic stabilization fund balance in excess of the sufficient 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 a percentage of the economic stabilization fund balance in a state fiscal biennium that exceeds the amount of the sufficient balance of the fund adopted under Section 316.092 (Determination of Sufficient Fund Balance) for that biennium in accordance with the investment standard described by Section 404.024(j) (requiring the comptroller, if the comptroller is required by law to invest funds other than as provided by this section, to invest those funds under the restrictions and procedures for making the investments that persons of ordinary discretion would follow). Provides that the comptroller's investment of that percentage of the 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 the balance of the fund is sufficient to meet the cash flow requirements of the fund.

(c) Requires the comptroller to include the fair market value of the investment portfolio of the economic stabilization fund in calculating the amount in the fund for purposes of 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, with exclusions as set forth), Article III (Legislative Department), Texas Constitution, and Section 316.093 (Adjustment of Constitutional Allocations to Fund and State Highway Fund) of this code.

(d) Provides that this section expires on the date Section 316.092 expires.

SECTION 2. Effective date: upon passage or September 1, 2015.