

- SUBJECT:** Establishing and administering a state bullion depository
- COMMITTEE:** Investments and Financial Services — favorable, without amendment
- VOTE:** 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson
- 0 nays
- WITNESSES:** For — Jimmy McClintock, Dillon Gage Metals Division; (*Registered, but did not testify*: Glenna Hodge, Conservative Republicans of Texas; Justin Arman, Texans for Accountable Government; Jake Posey, Universal Coin and Bullion, Ltd.; and five individuals)
- Against — None
- BACKGROUND:** Precious metals owned by Texas currently are stored in other states. Some believe that having a depository in Texas could address safety and uncertainty concerns associated with storing state assets far away. It also could provide an opportunity for Texas residents, investment organizations for state agencies, and others to store their assets in the state. A depository might generate revenue in the form of fees paid to the state for using the depository.
- DIGEST:** HB 483 would establish a Texas Bullion Depository within the Office of the Comptroller of Public Accounts. The depository would serve as the custodian, guardian, and administrator of certain bullion that might be transferred to or acquired by the state, an agency, or a political subdivision.
- The bill would define “bullion” as precious metals formed into uniform shapes and quantities, such as ingots or bars, with uniform content and purity, suitable for or used in the purchase, sale, storage, transfer, and delivery of bulk or wholesale transactions in precious metals. “Specie” would be defined as a precious metal stamped into coins of uniform shape, size, design, content, and purity that were suitable for or used as

currency, as a medium of exchange, or as the medium for purchase, sale, storage, transfer, or delivery of precious metals in retail or wholesale transactions.

Certain entities could place assets in the depository, including a fiduciary, political subdivisions and instrumentalities of the state, business or nonprofit corporations, charitable or educational corporations or associations, and financial institutions. The bill would make deposits to the depository and associated assets unavailable for legislative appropriation. In addition, bullion, specie, and related assets would be subject to redemption, liquidation, or transfer to meet certain obligations to account holders and intermediaries of the depository. Any revenue generated by the fees, charges or other payments received as a result of transactions would be deposited to the general revenue fund.

Structure of the depository. The depository would be under the direction and supervision of an administrator appointed by the comptroller with the advice and consent of the governor, lieutenant governor, and the Senate. The administrator would supervise and direct the operations of the depository and its agents and would coordinate with other parts of the comptroller's office to ensure that all transactions were planned, administered, and executed in keeping with the purposes of the bill. The administrator also could appoint a deputy or other subordinate officers with the approval of the comptroller.

Depository accounts. HB 483 would establish certain standards for deposits and depository accounts. For instance, the depository would have to record the amount of precious metal deposited, as well as the type and quantity of each precious metal deposited. The comptroller by rule would adopt standards governing how the deposits would be classified and credited to the depository's account. The comptroller by rule could limit the forms in which deposits could be made, if determined to be in the public interest. The depository would be required to make adjustments to each account to reflect additions to or withdrawals or deliveries from the account.

The bill would provide processes related to withdrawal of assets from the depository, transfer of depository account balances, and recording of changes to an account. The bill also would require that depositors contract with the depository for a depository account. These contracts would be subject to specific requirements.

The comptroller by rule would have to establish references and processes related to the official exchange rates and would have to establish procedures and requirements that would minimize the burden of accounting and reporting of taxable gains and losses.

Depository agents. HB 483 would provide requirements for the use of private, independently managed firms and institutions licensed as depository agents to act as intermediaries in conducting retail transactions on behalf of the depository. The bill would establish criteria for selection of these agents, as well as requirements for agents to have certain suitable electronic sharing and communication systems and to make periodic reports on their transactions.

HB 483 would amend several sections of Finance Code, ch. 151 on the regulation of money services businesses. The bill would specify applicable licensing requirements and would define what did and did not constitute depository agent services. It also would specify how current law applicable to money services businesses would be applied to a depository agent and depository agent services.

Other provisions. The bill contains additional provisions that would provide requirements and guidance on:

- the establishment of the owner of record of a depository account;
- the transfer of a depository account to another person;
- the non-interest bearing nature of depository accounts;
- the ability of the depository to place a lien on account holders in certain situations;
- persons or entities that could invest in a depository account and related financial implications;

- joint depository accounts, accounts held by a fiduciary, accounts held in trust or that had an undisclosed trust instrument; and
- the ability of an attorney-in-fact to manage or withdraw assets in a depository account and the conditions for revocation of this authority.

The bill would require the depository to enter into certain types of transactions and relationships as the comptroller deemed prudent and suitable. It also would prohibit certain actions, including those intended to have or having the effect of hedging or leveraging the depository's holdings. The bill would make void certain acts related to confiscation, requisition, and seizure of assets associated with a depository account.

Fees, service charges, and penalties. The comptroller by rule could establish fees, service charges, and penalties to be charged to a depository account holder for related services or activities.

Annual report. The comptroller would have to produce a report annually on information such as the status, condition, operation, and prospects for the depository. This report would be submitted to the governor and Legislature by September 30 of each year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.