

By Senators Rossin and Sullivan

35-545A-98

1                                   A bill to be entitled  
2           An act relating to investment of public funds  
3           (RAB); repealing s. 215.455, F.S., relating to  
4           the loan of securities; amending s. 215.515,  
5           F.S.; deleting provisions relating to review of  
6           charges for investment services of the State  
7           Board of Administration; amending s. 215.47,  
8           F.S.; revising list of eligible securities;  
9           authorizing the loan of securities or  
10          investments under specified conditions;  
11          amending s. 215.835, F.S.; prescribing  
12          rulemaking authority of the Division of Bond  
13          Finance and State Board of Administration;  
14          amending ss. 159.825, 218.407, F.S.;  
15          prescribing rulemaking authority of the State  
16          Board of Administration; creating s. 218.412,  
17          F.S.; providing rulemaking authority to the  
18          State Board of Administration; providing an  
19          effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Section 215.455, Florida Statutes, is  
24 repealed.

25           Section 2. Section 215.515, Florida Statutes, is  
26 amended to read:

27           215.515 Investment accounts; charges for services.--

28           (1) The Board of Administration shall make reasonable  
29 charges for all investment services performed for any agency,  
30 the judicial branch, or any fund in accordance with the  
31 provisions of ss. 215.44-215.53 or other provisions of law.

1 The agency, fund, or judicial branch shall pay the charges,  
2 and such sums as may be necessary for this purpose are hereby  
3 appropriated from earnings on investments held by such agency,  
4 fund, or the judicial branch. The amount to be paid by each  
5 agency, fund, or the judicial branch shall be determined in  
6 such proportion as the service rendered to each agency, fund,  
7 or the judicial branch bears to the total service rendered to  
8 all agencies and funds and the judicial branch.

9 ~~(2) The charges established and any revisions thereof~~  
10 ~~shall be reviewed by the Department of Management Services.~~  
11 ~~The review, and any recommendations of the Department of~~  
12 ~~Management Services accompanying the review, may be considered~~  
13 ~~by the board prior to the adoption of the charges or revision~~  
14 ~~thereof by the board.~~

15 (2)~~(3)~~ The State Board of Administration  
16 Administrative Expense Trust Fund may be invested by the board  
17 to the extent that such investment is consistent with the cash  
18 requirements and investment objectives of the board.

19 Section 3. Section 215.47, Florida Statutes, is  
20 amended to read:

21 215.47 Investments; authorized securities.--Subject to  
22 the limitations and conditions of the State Constitution or of  
23 the trust agreement relating to a trust fund, moneys available  
24 for investments under ss. 215.44-215.53 may be invested as  
25 follows:

26 (1) Without limitation in:

27 (a) Bonds, notes, or other obligations of the United  
28 States or those guaranteed by the United States or for which  
29 the credit of the United States is pledged for the payment of  
30 the principal and interest or dividends thereof.

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1 (b) State bonds pledging the full faith and credit of  
2 the state and revenue bonds additionally secured by the full  
3 faith and credit of the state.

4 (c) Bonds of the several counties or districts in the  
5 state containing a pledge of the full faith and credit of the  
6 county or district involved.

7 (d) Bonds issued or administered by the State Board of  
8 Administration secured solely by a pledge of all or part of  
9 the 2-cent constitutional fuel tax accruing under the  
10 provisions of s. 16, Art. IX of the State Constitution of  
11 1885, as amended, or of s. 9, Art. XII of the 1968 revised  
12 State Constitution.

13 (e) Bonds issued by the State Board of Education  
14 pursuant to ss. 18 and 19, Art. XII of the State Constitution  
15 of 1885, as amended, or to s. 9, Art. XII of the 1968 revised  
16 State Constitution, as amended.

17 (f) Bonds issued by the Florida Outdoor Recreational  
18 Development Council pursuant to s. 17, Art. IX of the State  
19 Constitution of 1885, as amended.

20 (g) Bonds issued by the Florida State Improvement  
21 Commission, Florida Development Commission, Division of Bond  
22 Finance of the Department of General Services, or Division of  
23 Bond Finance of the State Board of Administration.

24 (h) Savings accounts in, or certificates of deposit  
25 of, any bank, savings bank, or savings and loan association  
26 incorporated under the laws of this state or organized under  
27 the laws of the United States doing business and situated in  
28 this state, the accounts of which are insured by the Federal  
29 Government or an agency thereof, in an amount that does not  
30 exceed 15 percent of the net worth of the institution, or a  
31 lesser amount as determined by rule by the State Board of

1 Administration, provided such savings accounts and  
2 certificates of deposit are secured in the manner prescribed  
3 in chapter 280.

4 (i) Notes, bonds, and other obligations of agencies of  
5 the United States ~~Obligations of the Federal Farm Credit Banks~~  
6 ~~and obligations of the Federal Home Loan Bank and its district~~  
7 ~~banks.~~

8 ~~(j) Obligations of the Federal Home Loan Mortgage~~  
9 ~~Corporation, including participation certificates.~~

10 ~~(k) Obligations guaranteed by the Government National~~  
11 ~~Mortgage Association.~~

12 (j)(l) Commercial paper of prime quality of the  
13 highest letter and numerical rating as provided for by at  
14 least one nationally recognized rating service.

15 (k)(m) Time drafts or bills of exchange drawn on and  
16 accepted by a commercial bank, otherwise known as banker's  
17 acceptances, which are accepted by a member bank of the  
18 Federal Reserve System having total deposits of not less than  
19 \$400 million.

20 (l) Negotiable certificates of deposit issued by  
21 domestic or foreign financial institutions denominated in  
22 United States dollars.

23 (m)(n) Short-term obligations not authorized elsewhere  
24 in this section to be purchased individually or in pooled  
25 accounts or other collective investment funds, for the purpose  
26 of providing liquidity to any fund or portfolio.

27 (n)(o) Securities of, or other interests in, any  
28 open-end or closed-end management type investment company or  
29 investment trust registered under the Investment Company Act  
30 of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to  
31 time, provided that the portfolio of such investment company

1 or investment trust is limited to obligations of the United  
2 States Government or any agency or instrumentality thereof and  
3 to repurchase agreements fully collateralized by such United  
4 States Government obligations and provided that such  
5 investment company or investment trust takes delivery of such  
6 collateral either directly or through an authorized custodian.

7 (2) With no more than 25 percent of any fund in:

8 (a) Bonds, notes, or obligations of any municipality  
9 or political subdivision or any agency or authority of this  
10 state, if such obligations are rated in any one of the three  
11 highest ratings by two nationally recognized rating services.  
12 However, if only one nationally recognized rating service  
13 shall rate such obligations, then such rating service must  
14 have rated such obligations in any one of the two highest  
15 classifications heretofore mentioned.

16 (b) Notes secured by first mortgages on Florida real  
17 property, insured or guaranteed by the Federal Housing  
18 Administration or the United States Department of Veterans  
19 Affairs.

20 ~~(c) Interest-bearing obligations of the International~~  
21 ~~Bank for Reconstruction and Development, the Inter-American~~  
22 ~~Development Bank, the African Development Bank, the~~  
23 ~~International Finance Corporation, the Asian Development Bank,~~  
24 ~~the European Investment Bank, or the Nordic Investment Bank.~~

25 (c)~~(d)~~ Investments collateralized by first mortgages  
26 covering single-family Florida residences, provided such  
27 mortgages do not exceed \$60,000, do not exceed 80 percent of  
28 value, are not delinquent, and are originated by a lender  
29 regulated by the state or Federal Government and the aggregate  
30 of the collateral furnished is at least 150 percent of the  
31 aggregate investment under this subsection. The mortgages

1 used for collateral shall be segregated by the lending  
2 institution so that such segregation may be confirmed by  
3 independent audit. In the event any such mortgage used as  
4 collateral becomes more than 3 months delinquent, the lender  
5 shall immediately substitute therefor a mortgage of equal or  
6 greater value.

7 (d) Mortgage securities that represent participation  
8 in or are collateralized by mortgage loans secured by real  
9 property. Such securities must be issued by United States  
10 government agencies or government-sponsored enterprises,  
11 including the Government National Mortgage Association, the  
12 Federal National Mortgage Association, and the Federal Home  
13 Loan Mortgage Corporation.

14 ~~(e) Mortgage pass-through certificates, meaning~~  
15 ~~certificates evidencing ownership of an undivided interest in~~  
16 ~~pools of conventional mortgages on real property which is~~  
17 ~~improved by a building or buildings used for residential~~  
18 ~~purposes for one to four families when:~~

- 19 1. ~~Such real property is located in this state;~~  
20 2. ~~Such mortgages are originated by one or more banks~~  
21 ~~or savings and loan associations organized under the laws of~~  
22 ~~this state, by national banks or federal savings and loan~~  
23 ~~associations having their principal place of business in this~~  
24 ~~state, or by a lender that is approved by the Secretary of~~  
25 ~~Housing and Urban Development for the participation in any~~  
26 ~~mortgage insurance program under the National Housing Act and~~  
27 ~~has its principal place of business in this state, or by any~~  
28 ~~combination thereof; and~~  
29 3. ~~Such mortgages are transferred or assigned to a~~  
30 ~~corporate trustee acting for the benefit of the holders of~~  
31 ~~such certificates.~~

1           ~~(f)~~ Obligations of the Federal National Mortgage  
2 Association.

3           (e)~~(g)~~ Group annuity contracts of the pension  
4 investment type with insurers licensed to do business in this  
5 state, except that amounts invested by the board with any one  
6 insurer shall not exceed 3 percent of its assets.

7           (f)~~(h)~~ Certain interests in real property and related  
8 personal property, including mortgages and related instruments  
9 on commercial or industrial real property, with provisions for  
10 equity or income participation or with provisions for  
11 convertibility to equity ownership; and interests in  
12 collective investment funds. Associated expenditures for  
13 acquisition and operation of assets purchased under this  
14 provision shall be included as a part of the cost of the  
15 investment.

16           1. The title to real property acquired under this  
17 paragraph shall be vested in the name of the respective fund.

18           2. For purposes of taxation of property owned by any  
19 fund, the provisions of s. 196.199(2)(b) do not apply.

20           3. Real property acquired under the provisions of this  
21 paragraph shall not be considered state lands or public lands  
22 and property as defined in chapter 253, and the provisions of  
23 that chapter do not apply to such real property.

24           (g)~~(i)~~ General obligations backed by the full faith  
25 and credit of a foreign government which has not defaulted on  
26 similar obligations for a minimum period of 25 years prior to  
27 purchase of the obligation and has met its payments of similar  
28 obligations when due.

29           (h)~~(j)~~ A portion of the funds available for investment  
30 pursuant to this subsection may be invested in rated or  
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1 unrated bonds, notes, or instruments backed by the full faith  
2 and credit of the government of Israel.

3 (i)~~(k)~~ Obligations of agencies of the government of  
4 the United States, provided such obligations have been  
5 included in and authorized by the Florida Retirement System  
6 Total Fund Investment Plan established in s. 215.475.

7 (j)~~(i)~~ United States dollar-denominated obligations  
8 issued by foreign governments, or political subdivisions or  
9 agencies thereof, supranational agencies, or foreign  
10 corporations, or foreign commercial entities.

11 (3) With no more than 80 percent of any fund in common  
12 stock, preferred stock, and interest-bearing obligations of a  
13 corporation having an option to convert into common stock,  
14 provided:

15 (a) The corporation is organized under the laws of the  
16 United States, any state or organized territory of the United  
17 States, or the District of Columbia; or

18 (b) The corporation is listed on any one or more of  
19 the recognized national stock exchanges in the United States  
20 and conforms with the periodic reporting requirements under  
21 the Securities Exchange Act of 1934.

22 (c) Not more than 75 ~~50~~ percent of the fund may be in  
23 internally managed common stock.

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25 The board shall not invest more than 10 percent of the equity  
26 assets of any fund in the common stock, preferred stock, and  
27 interest-bearing obligations having an option to convert into  
28 common stock, of any one issuing corporation; and the board  
29 shall not invest more than 3 percent of the equity assets of  
30 any fund in such securities of any one issuing corporation  
31 except to the extent a higher percentage of the same issue is



1 included in a nationally recognized market index, based on  
2 market values, at least as broad as the Standard and Poor's  
3 Composite Index of 500 Companies, or except upon a specific  
4 finding by the board that such higher percentage is in the  
5 best interest of the fund. ~~The board may only sell listed  
6 options to reduce investment risk, to improve cash flow, or to  
7 provide alternative means for the purchase and sale of  
8 underlying investment securities. Reversing transactions may  
9 be made to close out existing option positions.~~

10 (4) With no more than 80 percent of any fund, in  
11 interest-bearing obligations with a fixed maturity of any  
12 corporation or commercial entity within the United States.

13 (5) With no more than 20 ~~10~~ percent of any fund in  
14 corporate obligations and securities of any kind of a foreign  
15 corporation or a foreign commercial entity having its  
16 principal office located in any country other than the United  
17 States of America or its possessions or territories, not  
18 including United States dollar-denominated securities listed  
19 and traded on a United States exchange which are a part of the  
20 ordinary investment strategy of the board.

21 (6) With no more than 5 percent of any fund to be  
22 invested as deemed appropriate by the board, notwithstanding  
23 investment limitations otherwise expressed in this section.  
24 Prior to the board engaging in any investment activity not  
25 otherwise authorized under ss. 215.44-215.53, excluding  
26 investments in publicly traded securities, options, financial  
27 futures, or similar instruments, the board shall present to  
28 the Investment Advisory Council a proposed plan for such  
29 investment. Said plan shall include, but not be limited to,  
30 the expected benefits and potential risks of such activity;  
31 methods for monitoring and measuring the performance of the

1 investment; a complete description of the type, nature, extent  
2 and purpose of the investment, including description of  
3 issuer, security in which investment is proposed to be made,  
4 voting rights or lack thereof and control to be acquired,  
5 restrictions upon voting, transfer, and other material rights  
6 of ownership, and the existence of any contracts,  
7 arrangements, understandings, or relationships with any person  
8 or entity (naming the same) with respect to the proposed  
9 investment; and assurances that sufficient investment  
10 expertise is available to the board to properly evaluate and  
11 manage such activity. The Investment Advisory Council may  
12 obtain independent investment counsel to provide expert advice  
13 with regard to such proposed investment activity by the board,  
14 and the board shall defray such costs.

15 (7) For the purpose of determining the above  
16 investment limitations, the value of bonds shall be the par  
17 value thereof, and the value of evidences of ownership and  
18 interest-bearing obligations having an option to convert to  
19 ownership shall be the cost thereof.

20 (8) Investments in any securities authorized by this  
21 section may be under repurchase agreements or reverse  
22 repurchase agreements.

23 (9) Investments made by the State Board of  
24 Administration shall be designed to maximize the financial  
25 return to the fund consistent with the risks incumbent in each  
26 investment and shall be designed to preserve an appropriate  
27 diversification of the portfolio. The board shall discharge  
28 its duties with respect to a plan solely in the interest of  
29 its participants and beneficiaries. The board in performing  
30 the above investment duties shall comply with the fiduciary  
31 standards set forth in the Employee Retirement Income Security

1 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A) through (C). In  
2 case of conflict with other provisions of law authorizing  
3 investments, the investment and fiduciary standards set forth  
4 in this subsection shall prevail.

5 (10) The board is authorized to buy and sell futures  
6 and options, provided the instruments for such purpose are  
7 traded on a securities exchange or board of trade regulated by  
8 the Securities and Exchange Commission or the Commodity  
9 Futures Trading Commission, unless the board by rule  
10 authorizes a different market.

11 (11) The board is authorized to invest in domestic or  
12 foreign notional principal contracts.

13 (12) The State Board of Administration, consistent  
14 with sound investment policy, may pledge up to 2 percent of  
15 the assets of the Florida Retirement System Trust Fund as  
16 collateral for housing bonds issued by the State of Florida or  
17 its political subdivisions under chapter 159, part V of  
18 chapter 420, or chapter 421 as a supplemental income program  
19 for the system. With regard to any collateral program, the  
20 State Board of Administration is authorized to coordinate or  
21 retain other governmental entities of the State of Florida or  
22 private entities to administer this program, as well as  
23 receive fees for the use of the designated collateral.

24 (13) The State Board of Administration, consistent  
25 with sound investment policy, may invest the earnings accrued  
26 and collected upon the investment of the minimum balance of  
27 funds required to be maintained in the State Transportation  
28 Trust Fund pursuant to s. 339.135(7)(b). Such investment  
29 shall be limited as provided in s. 288.9607(7).

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1           (14) With no more than 5 percent of any fund in  
2 private equity through participation in limited partnerships  
3 and limited liability companies.

4           (15) The State Board of Administration is authorized  
5 to invest in domestic and foreign group trusts.

6           (16) Securities or investments purchased or held under  
7 this section may be loaned to securities dealers or financial  
8 institutions, provided that the loan is collateralized by cash  
9 or securities having a market value of at least 100 percent of  
10 the market value of the securities loaned.

11           Section 4. Section 215.835, Florida Statutes, is  
12 amended to read:

13           215.835 Rulemaking authority.--The Division of Bond  
14 Finance and the State Board of Administration may adopt rules  
15 ~~as it deems~~ necessary to carry out the provisions and intent  
16 of this act.

17           Section 5. Section 159.825, Florida Statutes, is  
18 amended to read:

19           159.825 Terms of bonds.--The ordinance, resolution,  
20 indenture, agreement, or other instrument providing for the  
21 issuance of taxable bonds may provide for any of the  
22 following:

23           (1) The bonds shall be in such denominations, in such  
24 form, either bearer or registered, and payable at such place  
25 or places, either within or without the United States, at such  
26 time or times, as, in each case, the governing body shall  
27 determine subject to any limitations on the maturity of bonds  
28 set forth in the statutes under authority of which the bonds  
29 are issued.

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1           (2) The bonds shall be payable in legal tender of the  
2 United States, in a foreign currency, in commodities, or in  
3 precious metals, as the governing body shall determine.

4           (3) The governing body may appoint, in connection with  
5 the bond issue, a cotrustee located outside of the boundaries  
6 of the United States or its territories or possessions so long  
7 as it shall also appoint a trustee otherwise meeting the  
8 requirements of the statutes under authority of which the  
9 bonds are issued. The governing body may appoint, in  
10 connection with the bond issue, a paying agent or a copaying  
11 agent located outside the boundaries of the United States or  
12 its territories or possessions.

13           (4) Bonds shall bear interest at a rate not to exceed  
14 an average net interest cost rate, which shall be computed by  
15 adding 500 basis points to the 30-year Treasury Bond yield  
16 published in The Bond Buyer immediately preceding the first  
17 day of the calendar month in which the bonds are sold. If the  
18 interest rate on bonds bearing a floating or variable rate of  
19 interest as calculated on the date of the initial sale thereof  
20 does not exceed the limitation provided by this section, so  
21 long as the basis, method, or formula for computing the  
22 floating or variable rate does not change during the life of  
23 the bonds, subsequent increases in the interest rate in  
24 accordance with said basis, method, or formula shall not cause  
25 the interest rate on the bonds to violate the limitation  
26 provided by this subsection. A certificate by the issuer of  
27 the bonds as to the computation of the interest rate in  
28 compliance with this requirement shall be deemed conclusive  
29 evidence of compliance with the provisions of this subsection.  
30 Such maximum rate does not apply to bonds rated by a  
31 nationally recognized rating service in any one of the three

1 highest classifications, which rating services and  
2 classifications are determined pursuant to rules adopted by  
3 the State Board of Administration.

4 (5) Upon the request of a governmental unit, the State  
5 Board of Administration may authorize, for a specific issue or  
6 reissue of bonds, a rate of interest in excess of the maximum  
7 rate prescribed in subsection (4). The governmental unit  
8 shall provide in its request:

9 (a) Relevant supporting data which shall include, but  
10 not be limited to:

11 1. The official statement or prospectus, if available,  
12 or similar information relating to the sale of the bonds;

13 2. The resolution or ordinance authorizing the  
14 issuance of the bonds;

15 3. Financial data relating to anticipated revenue,  
16 debt service, and coverage; and

17 4. The most recent financial statement of the  
18 governmental unit.

19 (b) Information relating to sale of the bonds,  
20 including the amount of the discount, if any. In making the  
21 determination to exceed the maximum interest rate, the State  
22 Board of Administration shall consider, but not be limited to  
23 considering, comparable sales of other taxable bonds of other  
24 governmental units and evidence that the objectives and intent  
25 of the issuing of such bonds will be realized. This paragraph  
26 shall not apply to:

27 1. Bonds which have been sold prior to June 30, 1987,  
28 and which are delivered pursuant to said sale on or after June  
29 30, 1987.

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1           2. Bonds issued to finance projects under part II,  
2 part III, or part V of this chapter or health facilities under  
3 part III of chapter 154.

4           3. Limit or restrict the rate of interest on bonds or  
5 other obligations of municipal utilities or agencies thereof  
6 issued or made pursuant to authority provided in part II of  
7 chapter 166 and s. 215.431.

8           (6) In connection with, or incidental to, the sale and  
9 issuance of bonds, the governmental unit may enter into any  
10 contracts which the governing body determines to be necessary  
11 or appropriate to achieve a desirable effective interest rate  
12 in connection with the bonds by means of, but not limited to,  
13 contracts commonly known as investment contracts, funding  
14 agreements, interest rate swap agreements, currency swap  
15 agreements, forward payment conversion agreements, futures, or  
16 contracts providing for payments based on levels of or changes  
17 in interest rates, or contracts to exchange cash flows or a  
18 series of payments, or contracts, including, without  
19 limitation, options, puts, or calls to hedge payment, rate,  
20 spread, or similar exposure. Such contracts or arrangements  
21 may also be entered into by governmental units in connection  
22 with, or incidental to, entering into any agreement which  
23 secures bonds or provides liquidity therefor. Such contracts  
24 and arrangements shall be made upon the terms and conditions  
25 established by the governing body, after giving due  
26 consideration for the credit worthiness of the counterparties,  
27 where applicable, including any rating by a nationally  
28 recognized rating service or any other criteria as may be  
29 appropriate.

30           (7) In connection with, or incidental to, the sale and  
31 issuance of the bonds, or entering into any of the contracts

1 or arrangements referred to in subsection (6), the  
2 governmental unit may enter into such credit enhancement or  
3 liquidity agreements, with such payment, interest rate,  
4 security, default, remedy, and other terms and conditions as  
5 the governing body shall determine.

6 (8) Notwithstanding any provisions of state law  
7 relating to the investment or reinvestment of surplus funds of  
8 any governmental unit, proceeds of the bonds and any moneys  
9 set aside or pledged to secure payment of the principal of,  
10 premium, if any, and interest on the bonds, or any of the  
11 contracts entered into pursuant to subsection (6), may be  
12 invested in securities or obligations described in the  
13 ordinance or resolution providing for the issuance of the  
14 bonds.

15 (9) The State Board of Administration may adopt rules  
16 necessary to administer this section.

17 Section 6. Section 218.407, Florida Statutes, is  
18 amended to read:

19 218.407 Local government investment authority.--

20 (1) Upon determination by the governing body that it  
21 is in the interest of the unit of local government to deposit  
22 surplus funds in the trust fund, a resolution by the governing  
23 body shall be filed with the State Board of Administration  
24 authorizing investment of its surplus funds in the trust fund  
25 established by this part. The resolution shall name:

26 (a) The local government official, who may be the  
27 chief financial or administrative officer of the local  
28 government, or

29 (b) An independent trustee holding funds on behalf of  
30 the unit of local government,

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1 responsible for deposit and withdrawal of such funds ~~and shall~~  
2 ~~state the approximate cash-flow requirements of the local~~  
3 ~~government for the surplus funds to be invested.~~

4 (2) The State Board of Administration shall, upon the  
5 filing of the resolution, invest the moneys in the trust fund  
6 in the same manner and subject to the same restrictions as are  
7 set forth in s. 215.47, as provided by rule of the State Board  
8 of Administration.

9 (3) The provisions of this part shall not impair the  
10 power of a unit of local government to hold funds in deposit  
11 accounts with banking or savings institutions or to invest  
12 funds as otherwise authorized by law.

13 Section 7. Section 218.412, Florida Statutes, is  
14 created to read:

15 218.42 Rulemaking authority.--The State Board of  
16 Administration may adopt rules necessary to carry out this  
17 act.

18 Section 8. This act shall take effect upon becoming a  
19 law.

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21 SENATE SUMMARY

22 Provides authority for the State Board of Administration  
23 to adopt rules with respect to investment of public  
24 funds. Revises the list of investments that are  
25 permissible for public funds and revises the percentage  
26 of public funds which may be placed in certain  
27 investments.  
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