

By the Committee on Governmental Reform and Oversight and
Senators Rossin and Sullivan

302-1728A-98

1 A bill to be entitled
2 An act relating to investment of public funds;
3 amending s. 215.44, F.S.; authorizing the
4 Office of Program Policy Analysis and
5 Government Accountability to conduct
6 performance audits; repealing s. 215.455, F.S.,
7 relating to the loan of securities; amending s.
8 215.515, F.S.; deleting provisions relating to
9 review of charges for investment services of
10 the State Board of Administration; amending s.
11 215.47, F.S.; revising list of eligible
12 securities; authorizing the loan of securities
13 or investments under specified conditions;
14 creating s. 413.0115, F.S.; authorizing the
15 State Board of Administration to manage the
16 investment portfolio of the Division of Blind
17 Services; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Subsection (6) of section 215.44, Florida
22 Statutes, is amended to read:

23 215.44 Board of Administration; powers and duties in
24 relation to investment of trust funds.--

25 (6) The Auditor General shall audit annually the
26 entire operation of the board. The Office of Program Policy
27 Analysis and Government Accountability ~~In addition to his or~~
28 ~~her regular financial and compliance audit, the Auditor~~
29 ~~General~~ shall also perform or cause to be performed a
30 performance audit of the management by the board of
31 investments every 2 years. ~~, including among other things his~~

1 ~~or her independent verification of the data included by the~~
2 ~~board in its reports to the Legislature required by subsection~~
3 ~~(5). The Auditor General may elect to contract with a private~~
4 ~~professional firm qualified in investment portfolio management~~
5 ~~to conduct the performance audit of investment management~~
6 ~~required by this subsection.~~ In addition to the duties
7 prescribed in this subsection, the Auditor General shall
8 annually as part of his or her audit conduct performance
9 postaudits of investments under s. 215.47(6) which are not
10 otherwise authorized under ss. 215.44-215.53. The Auditor
11 General and the Office of Program Policy Analysis and
12 Government Accountability shall submit such audit report to
13 the board, the President of the Senate, and the Speaker of the
14 House of Representatives and their designees.

15 Section 2. Section 215.455, Florida Statutes, is
16 repealed.

17 Section 3. Section 215.515, Florida Statutes, is
18 amended to read:

19 215.515 Investment accounts; charges for services.--

20 (1) The Board of Administration shall make reasonable
21 charges for all investment services performed for any agency,
22 the judicial branch, or any fund in accordance with the
23 provisions of ss. 215.44-215.53 or other provisions of law.
24 The agency, fund, or judicial branch shall pay the charges,
25 and such sums as may be necessary for this purpose are hereby
26 appropriated from earnings on investments held by such agency,
27 fund, or the judicial branch. The amount to be paid by each
28 agency, fund, or the judicial branch shall be determined in
29 such proportion as the service rendered to each agency, fund,
30 or the judicial branch bears to the total service rendered to
31 all agencies and funds and the judicial branch.

1 ~~(2) The charges established and any revisions thereof~~
2 ~~shall be reviewed by the Department of Management Services.~~
3 ~~The review, and any recommendations of the Department of~~
4 ~~Management Services accompanying the review, may be considered~~
5 ~~by the board prior to the adoption of the charges or revision~~
6 ~~thereof by the board.~~

7 (2)~~(3)~~ The State Board of Administration
8 Administrative Expense Trust Fund may be invested by the board
9 to the extent that such investment is consistent with the cash
10 requirements and investment objectives of the board.

11 Section 4. Section 215.47, Florida Statutes, is
12 amended to read:

13 215.47 Investments; authorized securities.--Subject to
14 the limitations and conditions of the State Constitution or of
15 the trust agreement relating to a trust fund, moneys available
16 for investments under ss. 215.44-215.53 may be invested as
17 follows:

18 (1) Without limitation in:

19 (a) Bonds, notes, or other obligations of the United
20 States or those guaranteed by the United States or for which
21 the credit of the United States is pledged for the payment of
22 the principal and interest or dividends thereof.

23 (b) State bonds pledging the full faith and credit of
24 the state and revenue bonds additionally secured by the full
25 faith and credit of the state.

26 (c) Bonds of the several counties or districts in the
27 state containing a pledge of the full faith and credit of the
28 county or district involved.

29 (d) Bonds issued or administered by the State Board of
30 Administration secured solely by a pledge of all or part of
31 the 2-cent constitutional fuel tax accruing under the

1 provisions of s. 16, Art. IX of the State Constitution of
2 1885, as amended, or of s. 9, Art. XII of the 1968 revised
3 State Constitution.

4 (e) Bonds issued by the State Board of Education
5 pursuant to ss. 18 and 19, Art. XII of the State Constitution
6 of 1885, as amended, or to s. 9, Art. XII of the 1968 revised
7 State Constitution, as amended.

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

11 (g) Bonds issued by the Florida State Improvement
12 Commission, Florida Development Commission, Division of Bond
13 Finance of the Department of General Services, or Division of
14 Bond Finance of the State Board of Administration.

15 (h) Savings accounts in, or certificates of deposit
16 of, any bank, savings bank, or savings and loan association
17 incorporated under the laws of this state or organized under
18 the laws of the United States doing business and situated in
19 this state, the accounts of which are insured by the Federal
20 Government or an agency thereof, in an amount that does not
21 exceed 15 percent of the net worth of the institution, or a
22 lesser amount as determined by rule by the State Board of
23 Administration, provided such savings accounts and
24 certificates of deposit are secured in the manner prescribed
25 in chapter 280.

26 (i) Notes, bonds, and other obligations of agencies of
27 the United States ~~Obligations of the Federal Farm Credit Banks~~
28 ~~and obligations of the Federal Home Loan Bank and its district~~
29 ~~banks.~~

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

1 ~~(k)~~ ~~Obligations guaranteed by the Government National~~
2 ~~Mortgage Association.~~

3 (j)~~(l)~~ Commercial paper of prime quality of the
4 highest letter and numerical rating as provided for by at
5 least one nationally recognized rating service.

6 (k)~~(m)~~ Time drafts or bills of exchange drawn on and
7 accepted by a commercial bank, otherwise known as banker's
8 acceptances, which are accepted by a member bank of the
9 Federal Reserve System having total deposits of not less than
10 \$400 million.

11 (l) Negotiable certificates of deposit issued by
12 domestic or foreign financial institutions denominated in
13 United States dollars.

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

18 (n)~~(o)~~ Securities of, or other interests in, any
19 open-end or closed-end management type investment company or
20 investment trust registered under the Investment Company Act
21 of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to
22 time, provided that the portfolio of such investment company
23 or investment trust is limited to obligations of the United
24 States Government or any agency or instrumentality thereof and
25 to repurchase agreements fully collateralized by such United
26 States Government obligations and provided that such
27 investment company or investment trust takes delivery of such
28 collateral either directly or through an authorized custodian.

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

30 (a) Bonds, notes, or obligations of any municipality
31 or political subdivision or any agency or authority of this

1 state, if such obligations are rated in any one of the three
2 highest ratings by two nationally recognized rating services.
3 However, if only one nationally recognized rating service
4 shall rate such obligations, then such rating service must
5 have rated such obligations in any one of the two highest
6 classifications heretofore mentioned.

7 (b) Notes secured by first mortgages on Florida real
8 property, insured or guaranteed by the Federal Housing
9 Administration or the United States Department of Veterans
10 Affairs.

11 ~~(c) Interest bearing obligations of the International~~
12 ~~Bank for Reconstruction and Development, the Inter-American~~
13 ~~Development Bank, the African Development Bank, the~~
14 ~~International Finance Corporation, the Asian Development Bank,~~
15 ~~the European Investment Bank, or the Nordic Investment Bank.~~

16 (c)(d) Investments collateralized by first mortgages
17 covering single-family Florida residences, provided such
18 mortgages do not exceed \$60,000, do not exceed 80 percent of
19 value, are not delinquent, and are originated by a lender
20 regulated by the state or Federal Government and the aggregate
21 of the collateral furnished is at least 150 percent of the
22 aggregate investment under this subsection. The mortgages
23 used for collateral shall be segregated by the lending
24 institution so that such segregation may be confirmed by
25 independent audit. In the event any such mortgage used as
26 collateral becomes more than 3 months delinquent, the lender
27 shall immediately substitute therefor a mortgage of equal or
28 greater value.

29 (d) Mortgage securities that represent participation
30 in or are collateralized by mortgage loans secured by real
31 property. Such securities must be issued by United States

1 government agencies or government-sponsored enterprises,
2 including the Government National Mortgage Association, the
3 Federal National Mortgage Association, and the Federal Home
4 Loan Mortgage Corporation.

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

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

23 ~~(f) Obligations of the Federal National Mortgage~~
24 ~~Association.~~

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

29 ~~(f)(h)~~ (h) Certain interests in real property and related
30 personal property, including mortgages and related instruments
31 on commercial or industrial real property, with provisions for

1 equity or income participation or with provisions for
2 convertibility to equity ownership; and interests in
3 collective investment funds. Associated expenditures for
4 acquisition and operation of assets purchased under this
5 provision shall be included as a part of the cost of the
6 investment.

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

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

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

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

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

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

28 (j)~~(l)~~ United States dollar-denominated obligations
29 issued by foreign governments, or political subdivisions or
30 agencies thereof; supranational agencies, which are
31 organizations formed by sovereign nations through

1 international treaties for the purpose of promoting economic
2 development of the member countries;~~or foreign corporations;~~
3 or foreign commercial entities.

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

8 (a) The corporation is organized under the laws of the
9 United States, any state or organized territory of the United
10 States, or the District of Columbia; or

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

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

17
18 The board shall not invest more than 10 percent of the equity
19 assets of any fund in the common stock, preferred stock, and
20 interest-bearing obligations having an option to convert into
21 common stock, of any one issuing corporation; and the board
22 shall not invest more than 3 percent of the equity assets of
23 any fund in such securities of any one issuing corporation
24 except to the extent a higher percentage of the same issue is
25 included in a nationally recognized market index, based on
26 market values, at least as broad as the Standard and Poor's
27 Composite Index of 500 Companies, or except upon a specific
28 finding by the board that such higher percentage is in the
29 best interest of the fund. ~~The board may only sell listed~~
30 ~~options to reduce investment risk, to improve cash flow, or to~~
31 ~~provide alternative means for the purchase and sale of~~

1 ~~underlying investment securities. Reversing transactions may~~
2 ~~be made to close out existing option positions.~~

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

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

14 (6) With no more than 5 percent of any fund to be
15 invested as deemed appropriate by the board, notwithstanding
16 investment limitations otherwise expressed in this section.
17 Prior to the board engaging in any investment activity not
18 otherwise authorized under ss. 215.44-215.53, excluding
19 investments in publicly traded securities, options, financial
20 futures, or similar instruments, the board shall present to
21 the Investment Advisory Council a proposed plan for such
22 investment. Said plan shall include, but not be limited to,
23 the expected benefits and potential risks of such activity;
24 methods for monitoring and measuring the performance of the
25 investment; a complete description of the type, nature, extent
26 and purpose of the investment, including description of
27 issuer, security in which investment is proposed to be made,
28 voting rights or lack thereof and control to be acquired,
29 restrictions upon voting, transfer, and other material rights
30 of ownership, and the existence of any contracts,
31 arrangements, understandings, or relationships with any person

1 or entity (naming the same) with respect to the proposed
2 investment; and assurances that sufficient investment
3 expertise is available to the board to properly evaluate and
4 manage such activity. The Investment Advisory Council may
5 obtain independent investment counsel to provide expert advice
6 with regard to such proposed investment activity by the board,
7 and the board shall defray such costs.

8 (7) For the purpose of determining the above
9 investment limitations, the value of bonds shall be the par
10 value thereof, and the value of evidences of ownership and
11 interest-bearing obligations having an option to convert to
12 ownership shall be the cost thereof.

13 (8) Investments in any securities authorized by this
14 section may be under repurchase agreements or reverse
15 repurchase agreements.

16 (9) Investments made by the State Board of
17 Administration shall be designed to maximize the financial
18 return to the fund consistent with the risks incumbent in each
19 investment and shall be designed to preserve an appropriate
20 diversification of the portfolio. The board shall discharge
21 its duties with respect to a plan solely in the interest of
22 its participants and beneficiaries. The board in performing
23 the above investment duties shall comply with the fiduciary
24 standards set forth in the Employee Retirement Income Security
25 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A) through (C). In
26 case of conflict with other provisions of law authorizing
27 investments, the investment and fiduciary standards set forth
28 in this subsection shall prevail.

29 (10) The board is authorized to buy and sell futures
30 and options, provided the instruments for such purpose are
31 traded on a securities exchange or board of trade regulated by

1 the Securities and Exchange Commission or the Commodity
2 Futures Trading Commission, unless the board by rule
3 authorizes a different market.

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

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

17 (13) The State Board of Administration, consistent
18 with sound investment policy, may invest the earnings accrued
19 and collected upon the investment of the minimum balance of
20 funds required to be maintained in the State Transportation
21 Trust Fund pursuant to s. 339.135(7)(b). Such investment
22 shall be limited as provided in s. 288.9607(7).

23 (14) With no more than 5 percent of any fund in
24 private equity through participation in limited partnerships
25 and limited liability companies.

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

28 (16) Securities or investments purchased or held under
29 this section may be loaned to securities dealers or financial
30 institutions, provided that the loan is collateralized by cash

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1 or securities having a market value of at least 100 percent of
2 the market value of the securities loaned.

3 Section 5. Section 413.0115, Florida Statutes, is
4 created to read:

5 413.0115 State Board of Administration; authorization
6 to invest.--The State Board of Administration may invest and
7 reinvest the portfolio of stocks, bonds, and mutual funds held
8 by the Division of Blind Services in accordance with the trust
9 agreement approved by the Division of Blind Services and the
10 State Board of Administration and the provisions of ss.
11 215.44-215.53. The Director of the Division of Blind Services
12 shall make the portfolio available and shall transfer it to
13 the State Board of Administration for investment.

14 Section 6. This act shall take effect upon becoming a
15 law.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 1352

20 The committee substitute expands the existing investment
21 authority of the State Board of Administration.

22 The State Board of Administration is authorized to manage the
investment portfolio of the Division of Blind Services.

23 The Office of Program Policy Analysis and Government
24 Accountability is authorized to conduct management audits with
regard to the State Board of Administration every two years.

25 Rule authorizing issues originally contained in the bill have
26 been stripped out of the committee substitute and transferred
to Senate Bill 1332.

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