

**STORAGE NAME:** h1953.ca

**DATE:** April 18, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** HB 1953

**RELATING TO:** North Broward Hospital District

**SPONSOR(S):** Representative Rayson

**COMPANION BILL(S):** SB 2518 (i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS
  - (2) FINANCE & TAXATION
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill authorizes the North Broward Hospital District Board of Commissioners to enter into and execute the following:

1. Contracts referred to or which perform the function of an interest rate swap agreement, forward payment conversion agreement, or futures contract;
2. Contracts providing for payments based on levels of, or changes or differences in, interest rates;
3. Contracts to exchange cash flows or payments or series of payments;
4. Contracts called, or designed to perform the function of, interest rate floors caps, options, puts, or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, rate, or other financial risk; and
5. Any other type of contract or arrangement the District Board determines is to be used, or is intended to be used, to manage or reduce the cost of indebtedness, to convert any element of indebtedness from one to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.

The bill also authorizes the District Board to invest and reinvest available funds of its employee pension fund in accordance with general law provisions governing the investment of Florida Retirement System assets by the State Board of Administration (See Comments section regarding Notice of Publication inadequacy).

According to the attached Economic Impact Statement (EIS), the bill will result in nonrecurring legal fees not to exceed \$10,000.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 27438, Laws of Florida, 1951, created the North Broward Hospital District (District) for the preservation of the public health and the public good of the residents of the District. The District, which is an independent special district with ad valorem taxing authority, is governed by a board of seven members appointed by the Governor.

Included under the powers section 4 of chapter 27438, Laws of Florida, as amended, is the power to invest "surplus funds" in accordance with sections 218.345, Florida Statutes. The District Board has the power to delegate the investment of such funds to a state or national banking organization pursuant to a written trust agreement.

Section 218.345, Florida Statutes, authorizes the following types of investments for special district surplus funds:

- (a) The Local Government Surplus Funds Trust Fund, as created by section 218.405, Florida Statutes;
- (b) Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities;
- (c) Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law;
- (d) Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association; or
- (e) Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to obligations of the United States Government or any agency or instrumentality thereof and to repurchase agreements fully collateralized by such United States Government obligations, and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.

In 1990, the Legislature expanded the investment authority of the District to authorize the following instruments pursuant to an investment policy approved by the District Board: banker acceptances; commercial paper; interest-bearing bonds; debentures, and other evidences of indebtedness; government obligations, including obligations of the

Federal National Mortgage Association; and the purchase of options for bona fide hedging (chapter 90-485, Laws of Florida).

In 1991, the Legislature authorized the District Board to invest in equity securities of any U.S. corporation. Such securities must be listed on any one or more nationally recognized stock exchange and carry a rating in one of the two highest alphabetical categories from at least two nationally recognized rating agencies.

Section 31A of chapter 27438, Laws of Florida, 1951, as amended by chapter 61-1937, Laws of Florida, authorizes the District Board to create an employees' pension fund to provide for life and disability and medical insurance for all or any of its employees or officers on a group insurance, or other acceptable plan, approved by the District Board. The District Board also may establish and create by resolution an employees' pension, annuity, and retirement plan for any and all groups of officers and employees employed by the District and qualifying for such plan.

**B. EFFECT OF PROPOSED CHANGES:**

The bill authorizes the District Board of Commissioners to enter into and execute the following:

1. Contracts referred to or which perform the function of an interest rate swap agreement, forward payment conversion agreement, or futures contract;
2. Contracts providing for payments based on levels of, or changes or differences in, interest rates;
3. Contracts to exchange cash flows or payments or series of payments;
4. Contracts called, or designed to perform the function of, interest rate floors caps, options, puts, or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, rate, or other financial risk; and
5. Any other type of contract or arrangement the District Board determines is to be used, or is intended to be used, to manage or reduce the cost of indebtedness, to convert any element of indebtedness from one to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.

The bill also authorizes the District Board to invest and reinvest available funds of the pension fund in accordance with the provisions of section 215.44 - 215.53, Florida Statutes.

**C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:**

Chapter 27438, Laws of Florida, 1951; and chapters 61-1931, 61-1937, 65-1316, 69-898, 80-464, 84-399, 86-369, 87-508, 90-485, and 91-351, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1.** Paragraph (g) is added to subsection (2) of section 4 of chapter 27438, Laws of Florida, 1951, as amended. The added paragraph (g) authorizes the District Board of Commissioners to enter into and execute the following:

1. Contracts referred to or which perform the function of an interest rate swap agreement, forward payment conversion agreement, or futures contract;
2. Contracts providing for payments based on levels of, or changes or differences in, interest rates;
3. Contracts to exchange cash flows or payments or series of payments;
4. Contracts called, or designed to perform the function of, interest rate floors caps, options, puts, or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, rate, or other financial risk; and
5. Any other type of contract or arrangement the District Board determines is to be used, or is intended to be used, to manage or reduce the cost of indebtedness,

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to convert any element of indebtedness from one to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.

**Section 2.** Section 31A of chapter 27438, Laws of Florida, is amended to authorize the District Board to invest and reinvest available funds of the pension fund in accordance with the provisions of section 215.44 - 215.53, Florida Statutes.

**Section 3.** This section provides a severability clause.

**Section 4.** An effective date of upon becoming a law is provided.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 17, 1997

WHERE? Sun-Sentinel, Broward County

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

**Public Notice of Legislation**

Unless a local bill is subject to a vote of the electors in a referendum, Section 10 of Article III of the Florida Constitution provides in part that:

No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law.

Section 11.02, Florida Statutes, states that "Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution."

The prime purpose of these constitutional and statutory requirements is to appraise persons directly interested in the matter or thing to be affected of the nature or substance of the bill, so that the enactments, or the essential substance thereof, may be contested, if that is desired. So long as such laws as are finally enacted accord in substance and purpose and are germane to and within the scope of the subject-matter of the published notice, the organic provision, in this particular, has been complied with. See Prescott v. Board of Public Instruction, 32 So2d 731 (1947).

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The Notice of Legislation for HB 1953 reads in part:

An act relating to the North Broward Hospital District, Broward County, amending Chapter 27438, Laws of Florida, 1951, as amended, relating to the powers of the Board of Commissioners of the North Broward Hospital District to enter into interest rate swap agreements and certain other derivative instruments; providing for severability; providing an effective date.

The Notice of Legislation does not address provisions included in the bill authorizing the District Board to invest and reinvest available funds of the pension fund in accordance with the provisions of section 215.44 - 215.53, Florida Statutes.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Thomas L. Hamby, Jr.

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Jenny Underwood Dietzel