STORAGE NAME: h3173.ft
DATE: March 23, 1998

HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3173 (PCB GO 98-01)

RELATING TO: Retirement Funds/Investments

SPONSOR(S): Committee on Governmental Operations and Representative Posey

COMPANION BILL(S): SB 266(s), CS/HB 933(c), HB 3075(c), SB 270(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
(2) FINANCE AND TAXATION
(3)
(4)
(5)

I. SUMMARY:

This bill broadens the availability of investment vehicles, now restricted by current law, for firefighter and municipal police officer pension trust funds. It allows up to 10 percent of pension trust fund assets to be invested in foreign securities, subject to certain limitations. This bill also makes the following changes regarding the boards of trustees for firefighter and municipal police pension funds: revises and updates the references to certain federal agencies which insure investments made in chartered savings institutions; increases from 30 percent to 50 percent the permissible equity investment of a fund without a required variance in the approved investment procedures; requires a simple majority vote of the board to approve official business coming before it; provides record-keeping duties of the board's secretary; and, provides for a triennial evaluation of professional money managers for the board.

It is anticipated that any fiscal impact to the pension trust funds would be minimal and the potential for increased investment income would be greatly enhanced.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Sections 175.071 and 185.06, F.S., provide investment guidelines for firefighter and municipal police officer pension trust funds, respectively. These statutes restrict investment activities to the following:

1. Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation (FDIC), or a savings, building and loan association insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

2. Obligations of the United States or obligations guaranteed as to principal and interest by the Government of the U.S.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

   a. The corporation is listed on any one or more of the recognized national stock exchanges and holds a rating in one of the three highest classifications by a major rating service; and

   b. The board of trustees shall not invest more than five percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company or the aggregate of its investments at costs exceeding thirty percent of the total assets of the fund.

The State Board of Administration (SBA), pursuant to s. 215.44, F.S., is responsible for the investment of all funds related to the Florida Retirement System (FRS) Trust Fund. In addition, s. 215.47, F.S., clearly defines the scope of investment activities, including authorized securities, the board may use to meet their financial objectives. Within the provisions of the law there are specific recommendations as to asset allocations relating to fund type and restricted proportional weighting within that portfolio of securities. For example, if more than 10 percent of an investment fund’s portfolio is vested in corporate obligations or securities of any kind in a foreign corporation or foreign commercial entity, and their principal offices are not domiciled in the United States or in United States’ territories, the investment would be restricted and not authorized.

B. EFFECT OF PROPOSED CHANGES:

This bill substantially revises the powers and duties of the Board of Trustees of both firefighter and police pension funds. This bill amends s. 175.01, F.S., with regard to firefighter pension funds and s. 185.06, F.S., with regard to police pension funds. It amends these provisions as follows:

- Revises and updates the references to federal agencies which insure investments made in chartered savings institutions. The FDIC is replaced by the Bank Insurance Fund and the FSLIC is replaced by reference to the Savings Association Insurance Fund administered by the FDIC;

- Increases from 30 percent to 50 percent the permissible equity investment of a fund without a required variance in the approved investment procedures;

- Permits trustees to invest up to 10 percent of plan assets in foreign investments provided they comply with criteria in s. 215.47(1) - (9), F.S., and are accompanied by a new or amended total investment plan. The plan must establish the time horizon for the investment and its relationship to the fiduciary responsibility the board has to its plan members;

- Requires a simple majority of the board, rather than an absolute majority of three members, to approve official business coming before the board of trustees;

- Provides record-keeping duties of the board's secretary;

- Provides for a triennial evaluation of professional money managers for the board by a professionally qualified independent consultant. The bill provides minimum qualifications of a professionally qualified independent consultant; and

- Authorizes a plan to hire independent legal counsel, an independent actuary, and such other professional, technical or other advisers as it deems necessary; however, the employment of any of these must be at the pension fund's expense. A fund may elect to use its parent local government's counsel, actuary, or other professional or technical advisers, but shall do so only under terms and conditions acceptable to the board.

This bill provides an effective date of October 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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?

This bill provides greater investment latitude to make foreign investments and the trustees would need to monitor this new, increased, authority.

Professional money managers, financial institutions, and security firms may receive increased business.

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

No.

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

This bill does not eliminate or reduce an agency or program.

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

N/A

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

N/A

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

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

      N/A

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

      Yes. Any expenses would be paid out of pension funds.

4. Individual Freedom:

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

      Yes. It permits boards of trustees of firefighter and police pension funds to invest up to 10 percent of assets in foreign investments.

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

      No. It removes certain investment prohibitions and provides an opportunity to increase investment income.

5. Family Empowerment:

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

      This bill does not purport to provide a service to families or children.

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

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

N/A

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

N/A

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

N/A

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:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 175.071 and 185.06

E. SECTION-BY-SECTION RESEARCH:

Please see Section B., Effects of Proposed Changes.

III. <u>FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   See Fiscal Comments. To the extent that pension fund assets are successfully invested in a broader array of investment products, including foreign investments, there could be an increased rate of return on investment. Conversely, broader investment in unsuccessful investments could lead to a decreased rate of return.

3. Long Run Effects Other Than Normal Growth:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   Broader investment opportunities could provide increased business for the private sector.

3. Effects on Competition, Private Enterprise and Employment Markets:

   See Fiscal Comments.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill will not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Trustees and managers of firefighter and police officer pension funds throughout the state have ensured reasonable liquidity and little or no unfunded liability within their funds. The amount of monies managed and invested in firefighter and police pension funds is much smaller in comparison to those managed in the FRS. The complexities of investing require an in-depth knowledge of sophisticated issues affecting the net asset values of securities, especially with the movement toward a world economy. It is for these reasons that pension fund managers find it prudent to limit and spread risk among different investment vehicles to maximize return relative to the risks involved.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its October 8, 1997, Committee Meeting, the Committee on Governmental Operations adopted a conceptual amendment to the proposed committee bill, amending ss. 175.071 and 185.06, F.S., providing that any preexisting legal authority to make equity investments which exceed the requirements of this legislation shall continue to be valid.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by: Legislative Research Director:

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