

STORAGE NAME: h4547.ca

DATE: April 13, 1998

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

BILL #: HB 4547

RELATING TO: Lee County/Hospital Board

SPONSOR(S): Representative Livingston

COMPANION BILL(S): SB 2626 (s)

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

- (1) COMMUNITY AFFAIRS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill provides the methods by which the hospital Board of Directors of Lee County may invest its funds.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 155, Florida Statutes -- Hospitals:

Chapter 155, Florida Statutes, provides for the establishment and operation of county public hospitals.

[Note: This chapter does not provide criteria, requirements, or direction for the investment of surplus funds.]

Chapter 215, Florida Statutes -- Financial Matters: General Provisions:

Pursuant to section 215.47, Florida Statutes, authorizes the State Board of Administration to invest state moneys. 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 objects. 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% 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 U.S. or in U.S. territories, the investment would be restricted and not authorized.

Chapter 218, Florida Statutes -- Financial Matters Relating to Political Subdivisions:

Pursuant to section 218.345, Florida Statutes, special districts are authorized to invest surplus public funds in the Local Government Surplus Funds Trust Fund administered by the State Board of Administration (SBA), or they may invest the funds themselves in certain federal obligations and in specific types of securities.

Under part IV of chapter 218, F.S., the "Investment of Local Government Surplus Funds Act" (the Act), the Local Government Surplus Funds Trust Fund is created to serve as a repository for funds deposited by units of local government to be invested by the SBA, in the same manner and subject to the same restrictions as apply to investment of moneys in the Florida Retirement System Trust Fund (section 215.47, F.S.). The SBA is also authorized to provide technical assistance to local governments in investment of surplus funds.

Hospital Board of Directors of Lee County/Lee Memorial Health System:

In 1963, the Legislature passed ch. 63-1552, Laws of Florida, establishing a public hospital and nursing home in Lee County. The special act also provided the following:

- Authorizing the Board of County Commissioners to establish, acquire land and provide for the operation and maintenance for the public hospital and nursing home;
- Providing powers and duties of the county commission regarding the hospital and nursing home;

- Authorizing bond issue for certain purposes subject to referendum; and
- Providing for and regulating a hospital board, its duties, and its powers.

In 1987, the Legislature passed ch. 87-437, Laws of Florida, amending ch. 63-1552, Laws of Florida, as follows:

- Authorizing the creation, operation, and maintenance of additional hospitals, satellite hospitals, clinics, or other facilities devoted to the provision of healthcare services;
- Clarifying the language directing the hospital board to provide for the administration and governance of such facilities;
- Modifying the provisions relating to admittance and care of the indigent;
- Authorizing, rather than requiring, the hospital board to adopt bylaws, rules, regulations, guidelines, and policies;
- **Adding flexibility to the requirements relating to the expenditures of funds of the hospital board and authorizing the deposit or investments of surplus funds;**
- Providing for a chief executive officer and specifying his/her powers and duties;
- Clarifying the provisions setting forth the hospital board's authority to enter into contracts and leases; and
- Clarifying provisions related to service of process.

Special Districts:

According to *The 1997 Official List of Special Districts* published by the Department of Community Affairs, the Lee County Hospital Board is also known as the **Lee Memorial Heath System** and is classified as an **independent special district**.

Status Statement

Section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

[Note: HB 4547 does not contain a status statement.]

Codification of Special Acts

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of special districts' charters (including fire control districts), either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever

occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation. However, in the 1997 interim, some districts expressed the need to request substantive changes to their charters but because of the number of amendments (special acts) to their charters, they do not have time to codify.

As a result, the Chair of the Committee on Community Affairs issued a Memorandum on October 3, 1997, explaining the policy of the Committee for charter codifications for the 1998 Legislative Session. In part, the Memorandum states:

1. Although two bills are preferable (one to codify and one to accomplish the substantive change), the House Committee on Community Affairs will accept one bill (containing the codification and substantive change).
2. The substantive change, if included in the codifying local bill, **must be advertised** clearly and concisely, i.e., "a substantive change to the charter is being sought affecting membership of the Board," or whatever change(s) is applicable.
3. If a substantive change is needed to a District's charter this Session, but codification is too large a task to accomplish at the same time, the Committee will hear bills for any substantive changes that a legislative delegation deems necessary.
4. The Committee will accept voluntary charter codifications from any district for the 1998 Legislative Session.

[Note: HB 4547 does not codify the special acts relating to the Lee Memorial Health System.]

B. EFFECT OF PROPOSED CHANGES:

This bill clarifies what investments the hospital board may place its surplus funds.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 63-1552, Laws of Florida; and
Chapter 87-438, 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?

N/A

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

N/A

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

N/A

- 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?

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. Lower Taxes:

- 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?

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

- a. If the bill purports to provide services 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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 16 of chapter 63-1552, Laws of Florida, as amended by chapter 87-438, Laws of Florida, authorizing the hospital board to invest, as follows:

Without limitation:

- Bonds, notes, or other obligations of the United States or guaranteed by the United States or which the credit of the United States is pledged for the payment of the principal and interest or dividends;
- County or district bonds containing a pledge of the full faith and credit of the county or district;
- Certain savings accounts or certificates of deposit;
- Obligations of the Federal Farm Credit Banks and the obligations of the Federal Home Loan Mortgage Corporation (including participation certificates);
- Obligations guaranteed by the Government National Mortgage Association;
- Commercial paper of prime quality of the highest letter and numerical rating as provided for by at least one nationally recognized rating service;

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- Certain time drafts or bills of exchange drawn on and accepted by a commercial bank (otherwise known as banker's acceptances);
- Certain short-term obligations for the purpose of providing liquidity to any fund or portfolio;
- Certain securities of, or certain other interests in, any open-end or closed-end management type investment companies or investment trusts.

With no more than 25 percent of its funds, its surplus funds:

- Certain bonds, notes, or obligations of municipalities or political subdivisions, if such obligations are rated in at least one of the three highest ratings by two nationally recognized rating services;
- Notes secured by first mortgages on Florida real property, insured or guaranteed by the Federal Housing Administration or the U.S. Department of Veterans Affairs;
- Certain mortgage pass-through certificates;
- Obligations of the Federal National Mortgage Association;
- Certain group annuity contracts of the pension investment type with insurers licensed to do business in this state;
- Certain interests in real property and related personal property;
- Certain general obligations backed by the full faith and credit of a foreign government;
- Obligations of agencies of the government of the United States, provided such obligations have been included in and authorized by the Florida Retirement System Total Fund Investment Plan; or
- United States dollar-denominated obligations by foreign governments, or political subdivisions or their agencies, or foreign corporations or foreign commercial entities.

With no more than 50 percent of its funds, its surplus funds, in common stock, preferred stock, and interest-bearing obligations of a corporation having an option to convert into common stock, subject to the following conditions:

- The corporation is organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia; or
- The corporation is listed on any one or more of the recognized national stock exchanges in the United States and conforms with the periodic reporting requirements under the Security Exchange Act of 1934.

Prohibits the board from investing more than 10 percent of the equity assets of its funds in common stock, preferred stock, and certain interest-bearing obligations. In addition, the board is prohibited from investing more than 3 percent of the equity assets of any

funds in such securities of any one issuing corporation except under the following circumstances:

- To the extent a higher percentage of the same issue is included in a nationally recognized market index, base on market values at least as broad as the Standard and Poor's Composite Index of 500 companies; or
- Upon a specific finding by the board that such higher percentage is in the best interest of the board.

May only sell listed options for the following reasons:

- To reduce investment risks;
- To improve cash flow; or
- To provide alternate means for the purchase and sale of underlying investment securities.

Authorizes the use of reversing transactions only for the purposes of closing out existing option positions.

Prohibits more than 80 percent of the fund to be invested in interest-bearing obligations with a fixed maturity of any corporation or commercial entity within the United States.

Defines the value of bonds for the purposes of determining investment limitations, as the par value, the value of evidences of ownership and interest-bearing obligations having an option to convert to ownership shall be the cost thereof.

Authorizes investments under repurchase agreements or reverse repurchase agreements.

Authorizes the hospital board to designate investments to maximize the financial return to the fund consistent with the risks incumbent in each investment when such designation is needed to preserve an appropriate diversification of the portfolio.

Authorizes the hospital board to buy and sell futures and options, as long as these financial instruments are traded on a securities exchange or board of trade regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission, unless the hospital board authorizes, by rule, a different market.

Authorizes the hospital board to invest in domestic or foreign national principal contracts.

Section 2: Provides that this bill will become effective upon becoming a law.

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III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 28, 1998

WHERE? Fort Myers, Lee County, Florida; *The News-Press*

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:

This amendment appears specifically to authorize the Lee County Hospital Board/Lee Memorial Health System (an independent special district) to invest surplus funds subject to the conditions and procedures that they are currently subjected to under chapters 215 and 218, Florida Statutes.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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