

By Representative Livingston

1 A bill to be entitled
2 An act relating to investment of public funds;
3 amending s. 218.403, F.S.; defining the terms
4 "current expenses" and "short term" for
5 purposes of investment of local government
6 surplus funds; amending s. 218.415, F.S.;
7 prescribing applicability of provisions that
8 require a unit of local government to make its
9 investment activity consistent with an adopted,
10 written investment plan; providing an effective
11 date.

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

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15 Section 1. Section 218.403, Florida Statutes, is
16 amended to read:

17 218.403 Definitions.--The following words or terms,
18 when used in this part, shall have the following meanings:

19 (1) "Chief financial officer" means the mayor,
20 manager, administrator, clerk, comptroller, treasurer,
21 director of finance, or other local government official,
22 regardless of the title of his or her office, charged with
23 administering the fiscal affairs of a unit of local
24 government.

25 (2) "Current expenses" means expenses to meet known
26 cash needs and anticipated cash-flow requirements for the
27 short term.

28 (3)~~(2)~~ "Governing body" means the body or board in
29 which the legislative power of a unit of local government is
30 vested.

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1 (4) "Short term" means a maximum of 6 months of
2 operation.

3 ~~(5)(3)~~ "Surplus funds" means any funds in any general
4 or special account or fund of a unit of local government, or
5 funds held by an independent trustee on behalf of a unit of
6 local government, which in reasonable contemplation will not
7 be immediately needed for the purposes intended.

8 ~~(6)(4)~~ "Trust fund" means the pooled investment fund
9 created by s. 218.405 and known as the Local Government
10 Surplus Funds Trust Fund.

11 ~~(7)(5)~~ "Unit of local government" means any
12 governmental entity within the state not part of state
13 government and shall include, but not be limited to, the
14 following and the officers thereof: any county, municipality,
15 school district, special district, clerk of the circuit court,
16 sheriff, property appraiser, tax collector, supervisor of
17 elections, authority, board, public corporations, or any other
18 political subdivision of the state.

19 Section 2. Section 218.415, Florida Statutes, is
20 amended to read:

21 218.415 Local government investment policies.--~~On or~~
22 ~~before October 1, 1995, to the extent that any unit of local~~
23 ~~government elects to conduct~~ Investment activity by a unit of
24 local government ~~outside the framework provided by this part,~~
25 ~~such activity~~ must be consistent with a written investment
26 plan adopted by the governing body, or in the absence of the
27 existence of a governing body, the respective principal
28 officer of the unit of local government and maintained by the
29 unit of local government or, in the alternative, such activity
30 must be conducted in accordance with the investment guidelines
31 set forth in subsection (15). Any such unit of local

1 government shall have an investment policy for any public
2 funds in excess of the amounts needed to meet current expenses
3 as provided in subsections (1)-(14), or shall meet the
4 alternative investment guidelines contained in subsection
5 (15). Such policies shall be structured to place the highest
6 priority on the safety of principal and liquidity of funds.
7 The optimization of investment returns shall be secondary to
8 the requirements for safety and liquidity. Each unit of local
9 government shall adopt policies that are commensurate with the
10 nature and size of the public funds within their custody.

11 (1) SCOPE.--The investment policy shall apply to funds
12 under the control of the unit of local government in excess of
13 those required to meet current ~~short-term~~ expenses. The
14 investment policy shall not apply to pension funds, including
15 those funds in chapters 175 and 185; trust funds; or funds
16 related to the issuance of debt where there are other existing
17 policies or indentures in effect for such funds.

18 (2) INVESTMENT OBJECTIVES.--The investment policy
19 shall describe the investment objectives of the unit of local
20 government. Investment objectives shall include safety of
21 capital, liquidity of funds, and investment income, in that
22 order.

23 (3) PERFORMANCE MEASUREMENT.--The unit of local
24 government shall develop performance measures as are
25 appropriate for the nature and size of the public funds within
26 its custody.

27 (4) PRUDENCE AND ETHICAL STANDARDS.--The investment
28 policy shall describe the level of prudence and ethical
29 standards to be followed by the unit of local government in
30 carrying out its investment activities with respect to funds
31 described in this section. The unit of local government shall

1 adopt the Prudent Person Rule, which states that: "Investments
2 should be made with judgment and care, under circumstances
3 then prevailing, which persons of prudence, discretion, and
4 intelligence exercise in the management of their own affairs,
5 not for speculation, but for investment, considering the
6 probable safety of their capital as well as the probable
7 income to be derived from the investment."

8 (5) AUTHORIZED INVESTMENTS.--The investment policy
9 shall list authorized investments ~~as provided by law or local~~
10 ~~ordinance~~. Investments in derivative products must be
11 specifically authorized in the investment plan and may be
12 considered only if the unit of local government's chief
13 financial officer has developed sufficient understanding of
14 the derivative products and has the expertise to manage them.
15 For purposes of this subsection, a "derivative" is defined as
16 a financial instrument the value of which depends on, or is
17 derived from, the value of one or more underlying assets or
18 index or asset values. The use of reverse repurchase
19 agreements or other forms of leverage shall be prohibited or
20 limited by investment policy to transactions where the
21 proceeds are intended to provide liquidity and for which the
22 unit of local government has sufficient resources and
23 expertise.

24 (6) MATURITY AND LIQUIDITY REQUIREMENTS.--The
25 investment policy shall require that the investment portfolio
26 is structured in such manner as to provide sufficient
27 liquidity to pay obligations as they come due. To that end,
28 the investment policy should direct that, to the extent
29 possible, an attempt will be made to match investment
30 maturities with known cash needs and anticipated cash-flow
31 requirements.

1 (7) PORTFOLIO COMPOSITION.--The investment policy
2 shall establish guidelines for investments and limits on
3 security issues, issuers, and maturities. Such guidelines
4 shall be commensurate with the nature and size of the public
5 funds within the custody of the unit of local government.

6 (8) RISK AND DIVERSIFICATION.--The investment policy
7 shall provide for appropriate diversification of the
8 investment portfolio. Investments held should be diversified
9 to the extent practicable to control the risk of loss
10 resulting from overconcentration of assets in a specific
11 maturity, issuer, instrument, dealer, or bank through which
12 financial instruments are bought and sold. Diversification
13 strategies within the established guidelines shall be reviewed
14 and revised periodically, as deemed necessary by the
15 appropriate management staff.

16 (9) AUTHORIZED INVESTMENT INSTITUTIONS AND
17 DEALERS.--The investment policy should specify the authorized
18 securities dealers, issuers, and banks from whom the unit of
19 local government may purchase securities.

20 (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment
21 policy shall provide appropriate arrangements for the holding
22 of assets of the unit of local government. Securities should
23 be held with a third party; and all securities purchased by,
24 and all collateral obtained by, the unit of local government
25 should be properly designated as an asset of the unit of local
26 government. No withdrawal of securities, in whole or in part,
27 shall be made from safekeeping, except by an authorized staff
28 member of the unit of local government. Securities
29 transactions between a broker-dealer and the custodian
30 involving purchase or sale of securities by transfer of money
31 or securities must be made on a "delivery vs. payment" basis,

1 if applicable, to ensure that the custodian will have the
2 security or money, as appropriate, in hand at the conclusion
3 of the transaction.

4 (11) MASTER REPURCHASE AGREEMENT.--The unit of local
5 government shall require all approved institutions and dealers
6 transacting repurchase agreements to execute and perform as
7 stated in the Master Repurchase Agreement. All repurchase
8 agreement transactions shall adhere to the requirements of the
9 Master Repurchase Agreement.

10 (12) BID REQUIREMENT.--After the unit of local
11 government staff has determined the approximate maturity date
12 based on cash-flow needs and market conditions and has
13 analyzed and selected one or more optimal types of investment,
14 the security in question shall, when feasible and appropriate,
15 be competitively bid.

16 (13) INTERNAL CONTROLS.--The investment policy shall
17 provide for a system of internal controls and operational
18 procedures. The unit of local government's chief financial
19 officer shall, by January 1, 1996, establish a system of
20 internal controls which shall be in writing and made a part of
21 the governmental entity's operational procedures. The
22 investment policy shall provide for review of such controls by
23 independent auditors as part of any financial audit
24 periodically required of the unit of local government. The
25 internal controls should be designed to prevent losses of
26 funds which might arise from fraud, employee error,
27 misrepresentation by third parties, or imprudent actions by
28 employees of the unit of local government.

29 (14) REPORTING.--The investment policy shall provide
30 for appropriate annual or more frequent reporting of
31 investment activities. To that end, the governmental entity's

1 chief financial officer shall prepare periodic reports for
2 submission to the legislative and governing body of the unit
3 of local government, which shall include securities in the
4 portfolio by class or type, book value, income earned, and
5 market value as of the report date. Such reports shall be
6 available to the public.

7 (15) ALTERNATIVE INVESTMENT GUIDELINES.--In addition
8 to or in lieu of establishing a written investment plan in
9 accordance with investment policies developed pursuant to
10 subsections (1)-(14), a unit of local government electing to
11 conduct investment activity outside the framework provided by
12 this part shall do so under the guidelines set forth in this
13 section. The unit of local government may invest in the
14 following instruments and may divest itself of such
15 investments, at prevailing market prices or rates, subject to
16 the limitations of this section:

17 (a) The Local Government Surplus Funds Trust Fund, or
18 any intergovernmental investment pool authorized pursuant to
19 the Florida Interlocal Cooperation Act, as provided in s.
20 163.01.

21 (b) Securities and Exchange Commission registered
22 money market funds with the highest credit quality rating from
23 a nationally recognized rating agency.

24 (c) Savings accounts in state-certified qualified
25 public depositories, as defined in s. 280.02.

26 (d) Certificates of deposit in state-certified
27 qualified public depositories, as defined in s. 280.02.

28 (e) Direct obligations of the U.S. Treasury.

29 (f) Federal agencies and instrumentalities.

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1 The securities listed in paragraphs (c), (d), (e), and (f)
2 shall be invested to match investment maturities with current
3 expenses ~~known cash needs and anticipated cash flow~~
4 ~~requirements~~.

5 Section 3. This act shall take effect July 1, 1997.

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8 SENATE SUMMARY

9 Defines the terms "current expenses" and "short term" for
10 purposes of investment of local government surplus funds.
11 Provides that local government units must have written
12 investment plans for investment activity that comes
13 within the auspices of the Investment of Local Government
14 Surplus Funds Act.

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