

By Senator Rossin

35-42-00

See HB 303

1                                   A bill to be entitled  
2           An act relating to investment of public funds;  
3           amending s. 112.625, F.S.; revising and  
4           providing definitions under the Florida  
5           Protection of Public Employee Retirement  
6           Benefits Act; creating s. 112.661, F.S.;  
7           requiring that investment of the assets of any  
8           local retirement system or plan be consistent  
9           with a written investment policy; specifying  
10          requirements for such policies with respect to  
11          scope, investment objectives, performance  
12          measurement, investment standards, maturity and  
13          liquidity requirements, portfolio composition,  
14          risk and diversification, rate of return,  
15          third-party custodial agreements, master  
16          repurchase agreements, bid requirements,  
17          internal controls, continuing education  
18          requirements, reporting and filing  
19          requirements, and valuation of illiquid  
20          investments; requiring that such policies list  
21          authorized investments and prohibiting  
22          investments not so listed; amending s. 218.415,  
23          F.S.; revising requirements relating to local  
24          governments' investment policies; revising the  
25          funds to which written investment policies  
26          apply and revising requirements relating to  
27          bids, internal controls, and reporting;  
28          specifying authorized investments for those  
29          local governments that adopt a written  
30          investment policy; prohibiting investments not  
31          listed in such policy; requiring continuing

1 education for officials responsible for  
2 investment decisions; revising the list of  
3 authorized investments for those local  
4 governments that do not adopt a written  
5 investment policy; providing requirements with  
6 respect to the disposition and sale of  
7 securities, and funds subject to preexisting  
8 contracts; providing for preemption of  
9 conflicting laws; providing that audits of  
10 local governments shall report on compliance  
11 with said section; providing powers and duties  
12 of the Joint Legislative Auditing Committee,  
13 the Department of Revenue, the Department of  
14 Banking and Finance, and the Department of  
15 Community Affairs to enforce compliance;  
16 amending ss. 28.33 and 219.075, F.S.; providing  
17 for application of s. 218.415, F.S., to  
18 investment of county funds by clerks of the  
19 circuit courts and investment of surplus funds  
20 by county officers; amending s. 159.416, F.S.;  
21 providing for application of s. 218.415, F.S.,  
22 to investments made in connection with a pool  
23 financing program under the Florida Industrial  
24 Development Financing Act; amending s. 236.24,  
25 F.S.; deleting provisions that specify  
26 requirements with respect to investment of  
27 surplus funds by school boards; amending s.  
28 236.49, F.S.; providing for application of s.  
29 218.415(16), F.S., to investment of surplus  
30 funds derived from school district bond issues;  
31 amending s. 237.211, F.S.; correcting a

1 reference; repealing ss. 125.31, 166.261, and  
2 218.345, F.S., which specify requirements with  
3 respect to investment of surplus funds by  
4 counties, municipalities, and special  
5 districts, s. 230.23(10)(k), F.S., which  
6 provides requirements with respect to adoption  
7 of investment policies by school boards, and s.  
8 237.161(5), F.S., which authorizes school  
9 boards to invest surplus assets as obligations  
10 for a period of 1 year; providing an effective  
11 date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Subsections (7) and (8) of section 112.625,  
16 Florida Statutes, are amended, and subsection (9) is added to  
17 said section, to read:

18 112.625 Definitions.--As used in this act:

19 (7) "Statement value" means the value of assets in  
20 accordance with s. 302(c)(2) of the Employee Retirement Income  
21 Security Act of 1974 and as permitted under regulations  
22 prescribed by the Secretary of the Treasury. Assets for which  
23 a fair market value is not provided shall be excluded from the  
24 assets used in the determination of annual funding cost.

25 (8) "Named fiduciary," "board," or "board of trustees"  
26 means the person or persons so designated by the terms of the  
27 instrument or instruments, ordinance, or statute under which  
28 the plan is operated.

29 (9) "Plan sponsor" means the local governmental entity  
30 that has established or that may establish a local retirement  
31 system or plan.

1           Section 2. Section 112.661, Florida Statutes, is  
2 created to read:

3           112.661 Investment policies.--Investment of the assets  
4 of any local retirement system or plan must be consistent with  
5 a written investment policy adopted by the board. Such  
6 policies shall be structured to maximize the financial return  
7 to the retirement system or plan consistent with the risks  
8 incumbent in each investment and shall be structured to  
9 establish and maintain an appropriate diversification of the  
10 retirement system or plan's assets.

11           (1) SCOPE.--The investment policy shall apply to funds  
12 under the control of the board.

13           (2) INVESTMENT OBJECTIVES.--The investment policy  
14 shall describe the investment objectives of the board.

15           (3) PERFORMANCE MEASUREMENT.--The investment policy  
16 shall specify performance measures as are appropriate for the  
17 nature and size of the assets within the board's custody.

18           (4) INVESTMENT AND FIDUCIARY STANDARDS.--The  
19 investment policy shall describe the level of prudence and  
20 ethical standards to be followed by the board in carrying out  
21 its investment activities with respect to funds described in  
22 this section. The board in performing its investment duties  
23 shall comply with the fiduciary standards set forth in the  
24 Employee Retirement Income Security Act of 1974 at 29 U.S.C.  
25 s. 1104(a)(1)(A)-(C). In case of conflict with other  
26 provisions of law authorizing investments, the investment and  
27 fiduciary standards set forth in this section shall prevail.

28           (5) AUTHORIZED INVESTMENTS.--

29           (a) The investment policy shall list investments  
30 authorized by the board. Investments not listed in the  
31 investment policy are prohibited. Unless otherwise authorized

1 by law or ordinance, the investment of the assets of any local  
2 retirement system or plan covered by this part shall be  
3 subject to the limitations and conditions set forth in s.  
4 215.47(1), (2), (3), (4), (5), (6), (7), (8), (10), and (16).

5 (b) If a local retirement system or plan has  
6 investments that, on October 1, 2000, either exceed the  
7 applicable limit or do not satisfy the applicable investment  
8 standard, such excess or investment not in compliance with the  
9 policy may be continued until such time as it is economically  
10 feasible to dispose of such investment. However, no additional  
11 investment may be made in the investment category which  
12 exceeds the applicable limit, unless authorized by law or  
13 ordinance.

14 (6) MATURITY AND LIQUIDITY REQUIREMENTS.--The  
15 investment policy shall require that the investment portfolio  
16 be structured in such manner as to provide sufficient  
17 liquidity to pay obligations as they come due. To that end,  
18 the investment policy should direct that, to the extent  
19 possible, an attempt will be made to match investment  
20 maturities with known cash needs and anticipated cash-flow  
21 requirements.

22 (7) PORTFOLIO COMPOSITION.--The investment policy  
23 shall establish guidelines for investments and limits on  
24 security issues, issuers, and maturities. Such guidelines  
25 shall be commensurate with the nature and size of the funds  
26 within the custody of the board.

27 (8) RISK AND DIVERSIFICATION.--The investment policy  
28 shall provide for appropriate diversification of the  
29 investment portfolio. Investments held should be diversified  
30 to the extent practicable to control the risk of loss  
31 resulting from overconcentration of assets in a specific

1 maturity, issuer, instrument, dealer, or bank through which  
2 financial instruments are bought and sold. Diversification  
3 strategies within the established guidelines shall be reviewed  
4 and revised periodically, as deemed necessary by the board.

5 (9) EXPECTED ANNUAL RATE OF RETURN.--The investment  
6 policy shall require that, for each actuarial valuation, the  
7 board determine the total expected annual rate of return for  
8 the current year, for each of the next several years, and for  
9 the long term thereafter. This determination must be filed  
10 promptly with the Department of Management Services and with  
11 the plan's sponsor and the consulting actuary. The department  
12 shall use this determination only to notify the board, the  
13 plan's sponsor, and consulting actuary of material differences  
14 between the total expected annual rate of return and the  
15 actuarial assumed rate of return.

16 (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment  
17 policy shall provide appropriate arrangements for the holding  
18 of assets of the board. Securities should be held with a third  
19 party, and all securities purchased by, and all collateral  
20 obtained by, the board should be properly designated as an  
21 asset of the board. No withdrawal of securities, in whole or  
22 in part, shall be made from safekeeping except by an  
23 authorized member of the board or the board's designee.  
24 Securities transactions between a broker-dealer and the  
25 custodian involving purchase or sale of securities by transfer  
26 of money or securities must be made on a "delivery vs.  
27 payment" basis, if applicable, to ensure that the custodian  
28 will have the security or money, as appropriate, in hand at  
29 the conclusion of the transaction.

30 (11) MASTER REPURCHASE AGREEMENT.--The investment  
31 policy shall require all approved institutions and dealers

1 transacting repurchase agreements to execute and perform as  
2 stated in the Master Repurchase Agreement. All repurchase  
3 agreement transactions shall adhere to the requirements of the  
4 Master Repurchase Agreement.

5 (12) BID REQUIREMENT.--The investment policy shall  
6 provide that the board determine the approximate maturity date  
7 based on cash-flow needs and market conditions, analyze and  
8 select one or more optimal types of investment, and  
9 competitively bid the security in question when feasible and  
10 appropriate. Except as otherwise required by law, the most  
11 economically advantageous bid must be selected.

12 (13) INTERNAL CONTROLS.--The investment policy shall  
13 provide for a system of internal controls and operational  
14 procedures. The board shall establish a system of internal  
15 controls which shall be in writing and made a part of the  
16 board's operational procedures. The policy shall provide for  
17 review of such controls by independent certified public  
18 accountants as part of any financial audit periodically  
19 required of the board's unit of local government. The internal  
20 controls should be designed to prevent losses of funds which  
21 might arise from fraud, error, misrepresentation by third  
22 parties, or imprudent actions by the board or employees of the  
23 unit of local government.

24 (14) CONTINUING EDUCATION.--The investment policy  
25 shall provide for the continuing education of the board  
26 members in matters relating to investments and the board's  
27 responsibilities.

28 (15) REPORTING.--The investment policy shall provide  
29 for appropriate annual or more frequent reporting of  
30 investment activities. To that end, the board shall prepare  
31 periodic reports for submission to the governing body of the

1 unit of local government which shall include investments in  
2 the portfolio by class or type, book value, income earned, and  
3 market value as of the report date. Such reports shall be  
4 available to the public.

5 (16) FILING OF INVESTMENT POLICY.--Upon adoption by  
6 the board, the investment policy shall be promptly filed with  
7 the Department of Management Services and the plan's sponsor  
8 and consulting actuary. The effective date of the investment  
9 policy, and any amendment thereto, shall be the 31st calendar  
10 day following the filing date with the plan sponsor.

11 (17) VALUATION OF ILLIQUID INVESTMENTS.--The  
12 investment policy shall provide for the valuation of illiquid  
13 investments for which a generally recognized market is not  
14 available or for which there is no consistent or generally  
15 accepted pricing mechanism. If those investments are utilized,  
16 the investment policy must include the criteria set forth in  
17 s. 215.47(6), except that submission to the Investment  
18 Advisory Council is not required. The investment policy shall  
19 require that, for each actuarial valuation, the board must  
20 verify the determination of the fair market value for those  
21 investments and ascertain that the determination complies with  
22 all applicable state and federal requirements. The investment  
23 policy shall require that the board disclose to the Department  
24 of Management Services and the plan's sponsor each such  
25 investment for which the fair market value is not provided.

26 Section 3. Section 218.415, Florida Statutes, is  
27 amended to read:

28 218.415 Local government investment  
29 policies.--Investment activity by a unit of local government  
30 must be consistent with a written investment plan adopted by  
31 the governing body, or in the absence of the existence of a



1 governing body, the respective principal officer of the unit  
2 of local government and maintained by the unit of local  
3 government or, in the alternative, such activity must be  
4 conducted in accordance with ~~the investment guidelines set~~  
5 ~~forth in~~ subsection (17)~~(15)~~. Any such unit of local  
6 government shall have an investment policy for any public  
7 funds in excess of the amounts needed to meet current expenses  
8 as provided in subsections (1)-(16)~~(1)-(14)~~, or shall meet  
9 the alternative investment guidelines contained in subsection  
10 (17)~~(15)~~. Such policies shall be structured to place the  
11 highest priority on the safety of principal and liquidity of  
12 funds. The optimization of investment returns shall be  
13 secondary to the requirements for safety and liquidity. Each  
14 unit of local government shall adopt policies that are  
15 commensurate with the nature and size of the public funds  
16 within its ~~their~~ custody.

17 (1) SCOPE.--The investment policy shall apply to funds  
18 under the control of the unit of local government in excess of  
19 those required to meet current expenses. The investment policy  
20 shall not apply to pension funds, including those funds in  
21 chapters 175 and 185, ~~trust funds~~ or funds related to the  
22 issuance of debt where there are other existing policies or  
23 indentures in effect for such funds.

24 (2) INVESTMENT OBJECTIVES.--The investment policy  
25 shall describe the investment objectives of the unit of local  
26 government. Investment objectives shall include safety of  
27 capital, liquidity of funds, and investment income, in that  
28 order.

29 (3) PERFORMANCE MEASUREMENT.--The investment policy  
30 ~~unit of local government~~ shall specify ~~develop~~ performance  
31 measures as are appropriate for the nature and size of the

1 public funds within the its custody of the unit of local  
2 government.

3 (4) PRUDENCE AND ETHICAL STANDARDS.--The investment  
4 policy shall describe the level of prudence and ethical  
5 standards to be followed by the unit of local government in  
6 carrying out its investment activities with respect to funds  
7 described in this section. The unit of local government shall  
8 adopt the Prudent Person Rule, which states that: "Investments  
9 should be made with judgment and care, under circumstances  
10 then prevailing, which persons of prudence, discretion, and  
11 intelligence exercise in the management of their own affairs,  
12 not for speculation, but for investment, considering the  
13 probable safety of their capital as well as the probable  
14 income to be derived from the investment."

15 (5) LISTING OF AUTHORIZED INVESTMENTS.--The investment  
16 policy shall list investments authorized by the governing body  
17 of the unit of local government, subject to the provisions of  
18 subsection (16)investments. Investments not listed in the  
19 investment policy are prohibited. If the policy authorizes  
20 investments in derivative products, the policy must require  
21 that must be specifically authorized in the investment plan  
22 and may be considered only if the unit of local government's  
23 officials responsible for making investment decisions have  
24 chief financial officer has developed sufficient understanding  
25 of the derivative products and have has the expertise to  
26 manage them. For purposes of this subsection, a "derivative"  
27 is defined as a financial instrument the value of which  
28 depends on, or is derived from, the value of one or more  
29 underlying assets or index or asset values. If the policy  
30 authorizes investments in ~~The use of~~ reverse repurchase  
31 agreements or other forms of leverage, the policy must limit

1 the investments ~~shall be prohibited or limited by investment~~  
2 policy to transactions in which ~~where~~ the proceeds are  
3 intended to provide liquidity and for which the unit of local  
4 government has sufficient resources and expertise.

5 (6) MATURITY AND LIQUIDITY REQUIREMENTS.--The  
6 investment policy shall require that the investment portfolio  
7 is structured in such manner as to provide sufficient  
8 liquidity to pay obligations as they come due. To that end,  
9 the investment policy should direct that, to the extent  
10 possible, an attempt will be made to match investment  
11 maturities with known cash needs and anticipated cash-flow  
12 requirements.

13 (7) PORTFOLIO COMPOSITION.--The investment policy  
14 shall establish guidelines for investments and limits on  
15 security issues, issuers, and maturities. Such guidelines  
16 shall be commensurate with the nature and size of the public  
17 funds within the custody of the unit of local government.

18 (8) RISK AND DIVERSIFICATION.--The investment policy  
19 shall provide for appropriate diversification of the  
20 investment portfolio. Investments held should be diversified  
21 to the extent practicable to control the risk of loss  
22 resulting from overconcentration of assets in a specific  
23 maturity, issuer, instrument, dealer, or bank through which  
24 financial instruments are bought and sold. Diversification  
25 strategies within the established guidelines shall be reviewed  
26 and revised periodically, as deemed necessary by the  
27 appropriate management staff.

28 (9) AUTHORIZED INVESTMENT INSTITUTIONS AND  
29 DEALERS.--The investment policy should specify the authorized  
30 securities dealers, issuers, and banks from whom the unit of  
31 local government may purchase securities.

1           (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment  
2 policy shall provide appropriate arrangements for the holding  
3 of assets of the unit of local government. Securities should  
4 be held with a third party; and all securities purchased by,  
5 and all collateral obtained by, the unit of local government  
6 should be properly designated as an asset of the unit of local  
7 government. No withdrawal of securities, in whole or in part,  
8 shall be made from safekeeping, except by an authorized staff  
9 member of the unit of local government. Securities  
10 transactions between a broker-dealer and the custodian  
11 involving purchase or sale of securities by transfer of money  
12 or securities must be made on a "delivery vs. payment" basis,  
13 if applicable, to ensure that the custodian will have the  
14 security or money, as appropriate, in hand at the conclusion  
15 of the transaction.

16           (11) MASTER REPURCHASE AGREEMENT.--The investment  
17 policy ~~unit of local government~~ shall require all approved  
18 institutions and dealers transacting repurchase agreements to  
19 execute and perform as stated in the Master Repurchase  
20 Agreement. All repurchase agreement transactions shall adhere  
21 to the requirements of the Master Repurchase Agreement.

22           (12) BID REQUIREMENT.--The investment policy shall  
23 require that the unit of local government's staff determine  
24 the approximate maturity date based on cash-flow needs and  
25 market conditions, analyze and select one or more optimal  
26 types of investment, and competitively bid the security in  
27 question when feasible and appropriate. Except as otherwise  
28 required by law, the most economically advantageous bid must  
29 be selected.~~After the unit of local government staff has~~  
30 ~~determined the approximate maturity date based on cash-flow~~  
31 ~~needs and market conditions and has analyzed and selected one~~

1 ~~or more optimal types of investment, the security in question~~  
2 ~~shall, when feasible and appropriate, be competitively bid.~~

3 (13) INTERNAL CONTROLS.--The investment policy shall  
4 provide for a system of internal controls and operational  
5 procedures. The unit of local government's officials  
6 responsible for making investment decisions ~~chief financial~~  
7 ~~officer~~ shall, ~~by January 1, 1996,~~ establish a system of  
8 internal controls which shall be in writing and made a part of  
9 the governmental entity's operational procedures. The  
10 investment policy shall provide for review of such controls by  
11 independent auditors as part of any financial audit  
12 periodically required of the unit of local government. The  
13 internal controls should be designed to prevent losses of  
14 funds which might arise from fraud, employee error,  
15 misrepresentation by third parties, or imprudent actions by  
16 employees of the unit of local government.

17 (14) CONTINUING EDUCATION.--The investment policy  
18 shall provide for the continuing education of the unit of  
19 local government's officials responsible for making investment  
20 decisions. Such officials must annually complete 8 hours of  
21 continuing education in subjects or courses of study related  
22 to investment practices and products.

23 (15)~~(14)~~ REPORTING.--The investment policy shall  
24 provide for appropriate annual or more frequent reporting of  
25 investment activities. To that end, the governmental entity's  
26 officials responsible for making investment decisions ~~chief~~  
27 ~~financial officer~~ shall prepare periodic reports for  
28 submission to the legislative and governing body of the unit  
29 of local government, which shall include securities in the  
30 portfolio by class or type, book value, income earned, and  
31

1 market value as of the report date. Such reports shall be  
2 available to the public.

3 (16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT  
4 POLICIES.--Those units of local government electing to adopt a  
5 written investment policy as provided in subsections (1)-(15)  
6 may by resolution invest and reinvest any surplus public funds  
7 in their control or possession in:

8 (a) The Local Government Surplus Funds Trust Fund or  
9 any intergovernmental investment pool authorized pursuant to  
10 the Florida Interlocal Cooperation Act as provided in s.  
11 163.01.

12 (b) Securities and Exchange Commission registered  
13 money market funds with the highest credit quality rating from  
14 a nationally recognized rating agency.

15 (c) Savings accounts in, or certificates of deposit  
16 of, any bank, savings bank, or savings and loan association  
17 that is incorporated under the laws of this state or organized  
18 under the laws of the United States, and that is doing  
19 business in and is situated in this state, and whose accounts  
20 are insured by the Federal Government or an agency thereof,  
21 provided that such savings accounts and certificates of  
22 deposit are secured in the manner prescribed in chapter 280.

23 (d) Direct obligations of the United States Treasury.

24 (e) Federal agencies and instrumentalities.

25 (f) Securities of, or other interests in, any open-end  
26 or closed-end management-type investment company or investment  
27 trust registered under the Investment Company Act of 1940, 15  
28 U.S.C. ss. 80a-1 et seq., as amended from time to time,  
29 provided that the portfolio of such investment company or  
30 investment trust is limited to obligations of the United  
31 States Government or any agency or instrumentality thereof and

1 to repurchase agreements fully collateralized by such United  
2 States Government obligations, and provided that such  
3 investment company or investment trust takes delivery of such  
4 collateral either directly or through an authorized custodian.

5 (g) Other investments authorized by law or by  
6 ordinance.

7 (17)(15) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT  
8 POLICY ALTERNATIVE INVESTMENT GUIDELINES.--Those units of  
9 local government electing not to adopt a written investment  
10 policy in accordance with investment policies developed as  
11 provided in subsections (1)-(15) may invest or reinvest any  
12 surplus public funds in their control or possession in:In  
13 addition to or in lieu of establishing a written investment  
14 plan in accordance with investment policies developed pursuant  
15 to subsections (1)-(14), a unit of local government electing  
16 to conduct investment activity outside the framework provided  
17 by this part shall do so under the guidelines set forth in  
18 this section. The unit of local government may invest in the  
19 following instruments and may divest itself of such  
20 investments, at prevailing market prices or rates, subject to  
21 the limitations of this section.

22 (a) The Local Government Surplus Funds Trust Fund, or  
23 any intergovernmental investment pool authorized pursuant to  
24 the Florida Interlocal Cooperation Act, as provided in s.  
25 163.01.

26 (b) Securities and Exchange Commission registered  
27 money market funds with the highest credit quality rating from  
28 a nationally recognized rating agency.

29 (c) Savings accounts in, or certificates of deposit  
30 of, any bank, savings bank, or savings and loan association  
31 that is incorporated under the laws of this state or organized

1 under the laws of the United States, that is doing business in  
2 and is situated in this state, and whose accounts are insured  
3 by the Federal Government or an agency thereof, provided that  
4 such savings accounts and certificates of deposit are secured  
5 in the manner prescribed in chapter 280 in state-certified  
6 qualified public depositories, as defined in s. 280.02.

7 ~~(d) Certificates of deposit in state-certified~~  
8 ~~qualified public depositories, as defined in s. 280.02.~~

9 ~~(d)(e) Direct obligations of the U.S. Treasury.~~

10 ~~(f) Federal agencies and instrumentalities.~~

11  
12 The securities listed in paragraphs (c) and, ~~(d), (e), and (f)~~  
13 shall be invested to provide sufficient liquidity to pay  
14 obligations as they come due ~~match investment maturities with~~  
15 ~~current expenses.~~

16 (18) SECURITIES; DISPOSITION.--

17 (a) Every security purchased under this section on  
18 behalf of the governing body of a unit of local government  
19 must be properly earmarked and:

20 1. If registered with the issuer or its agents, must  
21 be immediately placed for safekeeping in a location that  
22 protects the governing body's interest in the security;

23 2. If in book entry form, must be held for the credit  
24 of the governing body by a depository chartered by the Federal  
25 Government, the state, or any other state or territory of the  
26 United States which has a branch or principal place of  
27 business in this state as defined in s. 658.12, or by a  
28 national association organized and existing under the laws of  
29 the United States which is authorized to accept and execute  
30 trusts and which is doing business in this state, and must be  
31



1 kept by the depository in an account separate and apart from  
2 the assets of the financial institution; or

3 3. If physically issued to the holder but not  
4 registered with the issuer or its agents, must be immediately  
5 placed for safekeeping in a secured vault in a financial  
6 institution in this state which maintains adequate secured  
7 vault insurance.

8 (b) The unit of local government's governing body may  
9 also receive bank trust receipts in return for investment of  
10 surplus funds in securities. Any trust receipts received must  
11 enumerate the various securities held, together with the  
12 specific number of each security held. The actual securities  
13 on which the trust receipts are issued may be held by any bank  
14 depository chartered by the Federal Government, this state, or  
15 any other state or territory of the United States which has a  
16 branch or principal place of business in this state as defined  
17 in s. 658.12, or by a national association organized and  
18 existing under the laws of the United States which is  
19 authorized to accept and execute trusts and which is doing  
20 business in this state.

21 (19) SALE OF SECURITIES.--When the invested funds are  
22 needed in whole or in part for the purposes originally  
23 intended, the unit of local government's governing body may  
24 sell such investments at the then-prevailing market price and  
25 place the proceeds into the proper account or fund of the unit  
26 of local government.

27 (20) PREEXISTING CONTRACT.--Any public funds subject  
28 to a contract or agreement existing on October 1, 2000, may  
29 not be invested contrary to such contract or agreement.

30 (21) PREEMPTION.--Any provision of any special act,  
31 municipal charter, or other law which prohibits or restricts a

1 local governmental entity from complying with this section or  
2 any rules adopted under this section is void to the extent of  
3 the conflict.

4 (22) AUDITS.--Certified public accountants conducting  
5 audits of units of local government pursuant to s. 11.45 shall  
6 report, as part of the audit, whether or not the unit of local  
7 government has complied with this section.

8 (23) AUDITOR GENERAL; REVIEW.--During the Auditor  
9 General's review of audit reports of units of local  
10 government, the Auditor General shall notify the Joint  
11 Legislative Auditing Committee of any unit of local government  
12 not in compliance with this section. Following notification of  
13 failure by a local government to comply with this section, a  
14 hearing may be scheduled by the committee. If a hearing is  
15 scheduled, the committee shall determine which units of local  
16 government will be subjected to further state action. If the  
17 committee finds that one or more units of local government  
18 should be subjected to further state action, the committee  
19 shall:

20 (a) In the case of a county, municipality, or district  
21 school board, request the Department of Revenue and the  
22 Department of Banking and Finance to withhold any funds  
23 payable to such entity until the entity has complied with this  
24 section.

25 (b) In the case of a special district, notify the  
26 Department of Community Affairs that the special district has  
27 failed to comply with this section. Upon receipt of  
28 notification, the Department of Community Affairs shall  
29 proceed pursuant to the provisions specified in ss. 189.421  
30 and 189.422.

31

1 Section 4. Section 28.33, Florida Statutes, is amended  
2 to read:

3 28.33 Investment of county funds by the clerk of the  
4 circuit court.--The clerk of the circuit court in each county  
5 shall invest county funds in excess of those required to meet  
6 expenses as provided in s. 218.415.~~make an estimate of his or~~  
7 ~~her projected financial needs for the county and shall invest~~  
8 ~~any funds in designated depository banks in interest-bearing~~  
9 ~~certificates or in any direct obligations of the United States~~  
10 ~~in compliance with federal laws relating to receipt of and~~  
11 ~~withdrawal of deposits. All investments shall be open for bid~~  
12 ~~to all qualified depositories in the county. The clerk shall~~  
13 ~~select the highest and best bid for deposit. All bids~~  
14 ~~received by the clerk shall include, but not be limited to,~~  
15 ~~the interest rate to be earned and the total amount of dollar~~  
16 ~~return to be paid to the clerk. In the event of a like bid~~  
17 ~~between two or more banks, the moneys shall be divided and~~  
18 ~~deposited in each bank, so long as the total interest income~~  
19 ~~from the divided deposits will not be less than the total~~  
20 ~~interest income had the deposits not been divided. If at the~~  
21 ~~time of bid the dollar return on direct obligations of the~~  
22 ~~Federal Government is greater than the highest bank return,~~  
23 ~~then the clerk shall invest in the higher return security.~~  
24 ~~Moneys deposited in the registry of the court shall be~~  
25 ~~deposited in interest-bearing certificates at the discretion~~  
26 ~~of the clerk, subject to the above guidelines.~~No clerk  
27 investing such funds shall be liable for the loss of any  
28 interest when circumstances require the withdrawal of funds  
29 placed in a time deposit and needed for immediate payment of  
30 county obligations. In any county where local banks refuse to  
31 bid on securing such money on interest-bearing certificates,

1 ~~the clerk may request and receive bids from banks in other~~  
2 ~~counties within the state and make such deposits to the~~  
3 ~~successful bidder. Except for interest earned on moneys~~  
4 ~~deposited in the registry of the court, all interest accruing~~  
5 ~~from moneys deposited shall be deemed income of the office of~~  
6 ~~the clerk of the circuit court investing such moneys and shall~~  
7 ~~be deposited in the same account as are other fees and~~  
8 ~~commissions of the clerk's office. The clerk may invest~~  
9 ~~moneys deposited in the registry of the court and shall retain~~  
10 ~~as income of the office of the clerk and as a reasonable~~  
11 ~~investment management fee 10 percent of the interest accruing~~  
12 ~~on those funds with the balance of such interest being~~  
13 ~~allocated in accordance with the interest of the depositors.~~  
14 ~~Each clerk shall, as soon as practicable after the end of the~~  
15 ~~fiscal year, report to the county governing authority the~~  
16 ~~total interest earned on all investments during the preceding~~  
17 ~~year.~~

18 Section 5. Subsection (9) of section 159.416, Florida  
19 Statutes, is amended to read:

20 159.416 Pool financings.--

21 (9) Proceeds of bonds and moneys held for the payment  
22 of debt service on bonds, including, but not limited to,  
23 amounts held in the loan fund, any reserve fund, or debt  
24 service fund for the bonds, may be invested in investments  
25 authorized by or pursuant to an ordinance or resolution  
26 providing for the issuance of the bonds or any trust agreement  
27 or trust indenture or other instrument approved by such  
28 ordinance or resolution, including, but not limited to,  
29 investments described in s. 218.415 ~~ss. 28.33, 125.31,~~  
30 ~~166.261, 218.345, 219.075, and 236.24~~ and chapter 280. The  
31 acquisition of any debt obligation or investment contract or

1 investment agreement of any bank, savings and loan  
2 association, insurance company, registered broker-dealer, or  
3 other financial institution shall be deemed to be an  
4 investment and not a loan and therefore need not meet the  
5 criteria of subsections (5), (6), and (7).

6 Section 6. Section 219.075, Florida Statutes, is  
7 amended to read:

8 219.075 Investment of surplus funds by county  
9 officers.--

10 (1)(a) Except when another procedure is prescribed by  
11 law or by ordinance as to particular funds, a tax collector or  
12 any other county officer having, receiving, or collecting any  
13 money, either for his or her office or on behalf of and  
14 subject to subsequent distribution to another officer of state  
15 or local government, while such money is in excess of that  
16 required to meet current expenses ~~surplus to current needs of~~  
17 ~~his or her office~~ or is pending distribution, shall invest  
18 such money, without limitation, as provided in s. 218.415.in+

19 ~~1. The Local Government Surplus Funds Trust Fund, as~~  
20 ~~created by s. 218.405;~~

21 ~~2. Bonds, notes, or other obligations of the United~~  
22 ~~States guaranteed by the United States or for which the credit~~  
23 ~~of the United States is pledged for the payment of the~~  
24 ~~principal and interest or dividends;~~

25 ~~3. Interest-bearing time deposits or savings accounts~~  
26 ~~in banks organized under the laws of this state, in national~~  
27 ~~banks organized under the laws of the United States and doing~~  
28 ~~business and situated in this state, in savings and loan~~  
29 ~~associations which are under state supervision, or in federal~~  
30 ~~savings and loan associations located in this state and~~  
31 ~~organized under federal law and federal supervision, provided~~

1 ~~that any such deposits are secured by collateral as may be~~  
2 ~~prescribed by law; or~~

3 ~~4. Securities of, or other interests in, any open-end~~  
4 ~~or closed-end management type investment company or investment~~  
5 ~~trust registered under the Investment Company Act of 1940, 15~~  
6 ~~U.S.C. ss. 80a-1 et seq., as amended from time to time,~~  
7 ~~provided the portfolio of such investment company or~~  
8 ~~investment trust is limited to obligations of the United~~  
9 ~~States Government or any agency or instrumentality thereof and~~  
10 ~~to repurchase agreements fully collateralized by such United~~  
11 ~~States Government obligations and provided such investment~~  
12 ~~company or investment trust takes delivery of such collateral~~  
13 ~~either directly or through an authorized custodian.~~

14 (b) These investments shall be planned so as not to  
15 slow the normal distribution of the subject funds. The  
16 investment earnings shall be reasonably apportioned and  
17 allocated and shall be credited to the account of, and paid  
18 to, the office or distributee, together with the principal on  
19 which such earnings accrued.

20 (2) Except when another procedure is prescribed by  
21 law, ordinance, or court order as to particular funds, the tax  
22 collector shall, as soon as feasible after collection, deposit  
23 in a bank designated as a depository of public funds, as  
24 provided in s. 658.60, all taxes, fees, and other collections  
25 received by him or her and held prior to distribution to the  
26 appropriate taxing authority. Immediately after such funds  
27 have cleared and have been properly credited to the tax  
28 collector's ~~his or her~~ account, the tax collector shall invest  
29 such funds according to the provisions of s. 218.415 ~~this~~  
30 ~~section~~. The earnings from such investments shall be  
31 apportioned at least quarterly on a pro rata basis to the

1 appropriate taxing authorities. However, the tax collector  
2 may deduct therefrom such reasonable amounts as are necessary  
3 to provide for costs of administration of such investments and  
4 deposits.

5 (3) The State Board of Administration may establish a  
6 schedule and guidelines to be followed by tax collectors  
7 making deposits ~~and investments~~ under the provisions of  
8 subsection (2).

9 ~~(4) The provisions of this section are subject to the~~  
10 ~~provisions of s. 218.415.~~

11 Section 7. Section 236.24, Florida Statutes, is  
12 amended to read:

13 236.24 Sources of district school fund.--

14 ~~(1)~~ The district school fund shall consist of funds  
15 derived from the district school tax levy; state  
16 appropriations; appropriations by county commissioners; local,  
17 state, and federal school food service funds; any and all  
18 other sources for school purposes; national forest trust funds  
19 and other federal sources; and gifts and other sources.

20 ~~(2)(a) Unless otherwise authorized by law or by~~  
21 ~~ordinance, each school board shall, by resolution to be~~  
22 ~~adopted from time to time, invest and reinvest any surplus~~  
23 ~~public funds in its control or possession in:~~

24 1. ~~The Local Government Surplus Funds Trust Fund;~~  
25 2. ~~Negotiable direct obligations of, or obligations~~

26 ~~the principal and interest of which are unconditionally~~  
27 ~~guaranteed by, the United States Government at the then~~  
28 ~~prevailing market price for such securities;~~

29 3. ~~Interest-bearing time deposits or savings accounts~~  
30 ~~in qualified public depositories as defined in s. 280.02;~~

31

1           ~~4. Obligations of the federal farm credit banks; the~~  
2 ~~Federal Home Loan Mortgage Corporation, including Federal Home~~  
3 ~~Loan Mortgage Corporation participation certificates; or the~~  
4 ~~Federal Home Loan Bank or its district banks or obligations~~  
5 ~~guaranteed by the Government National Mortgage Association;~~

6           ~~5. Obligations of the Federal National Mortgage~~  
7 ~~Association, including Federal National Mortgage Association~~  
8 ~~participation certificates and mortgage pass-through~~  
9 ~~certificates guaranteed by the Federal National Mortgage~~  
10 ~~Association; or~~

11           ~~6. Securities of, or other interests in, any open-end~~  
12 ~~or closed-end management type investment company or investment~~  
13 ~~trust registered under the Investment Company Act of 1940, 15~~  
14 ~~U.S.C. ss. 80a-1 et seq., as amended from time to time,~~  
15 ~~provided the portfolio of such investment company or~~  
16 ~~investment trust is limited to obligations of the United~~  
17 ~~States Government or any agency or instrumentality thereof and~~  
18 ~~to repurchase agreements fully collateralized by such United~~  
19 ~~States Government obligations, and provided such investment~~  
20 ~~company or investment trust takes delivery of such collateral~~  
21 ~~either directly or through an authorized custodian.~~

22           ~~(b)1. Securities purchased by any such school board~~  
23 ~~under the authority of this law shall be delivered by the~~  
24 ~~seller to the school board or its appointed safekeeper. The~~  
25 ~~safekeeper shall be a qualified bank or trust company~~  
26 ~~chartered to operate as such by the State of Florida, any~~  
27 ~~other state or territory of the United States, or the United~~  
28 ~~States Government, that has a branch or principal place of~~  
29 ~~business in this state as defined in s. 658.12. The safekeeper~~  
30 ~~shall issue documentation for each transaction, and a monthly~~  
31 ~~statement detailing all transactions for the period.~~



1           ~~2. Securities physically delivered to the school board~~  
2 ~~shall be placed in a safe-deposit box in a bank or other~~  
3 ~~institution located within the county and duly licensed and~~  
4 ~~insured. Withdrawals from such safe-deposit box shall be only~~  
5 ~~by persons duly authorized by resolution of the school board.~~

6           ~~3. The school board may also receive bank trust~~  
7 ~~receipts in return for investment of surplus funds in~~  
8 ~~securities. Any trust receipts received must enumerate the~~  
9 ~~various securities held together with the specific number of~~  
10 ~~each security held. The actual securities on which the trust~~  
11 ~~receipts are issued may be held by any bank depository~~  
12 ~~chartered by the United States Government, the State of~~  
13 ~~Florida, or any other state or territory of the United States,~~  
14 ~~that has a branch or principal place of business in this state~~  
15 ~~as defined in s. 658.12, or their designated agents.~~

16           ~~(c) When the money invested in such securities is~~  
17 ~~needed in whole or in part for the purposes originally~~  
18 ~~intended, the school board is authorized to sell such security~~  
19 ~~or securities at the then prevailing market price and to pay~~  
20 ~~the proceeds of such sale into the proper account or fund of~~  
21 ~~the school board.~~

22           ~~(d) For the purposes of this law, the term "surplus~~  
23 ~~funds" is defined as funds in any general or special account~~  
24 ~~or fund of the school board, held or controlled by the school~~  
25 ~~board, which funds are not reasonably contemplated to be~~  
26 ~~needed for the purposes intended within a reasonable time from~~  
27 ~~the date of such investment.~~

28           ~~(e) Any surplus public funds subject to a contract or~~  
29 ~~agreement on the date of this enactment shall not be invested~~  
30 ~~contrary to such contract or agreement.~~

31

1           ~~(f) The provisions of this subsection are supplemental~~  
2 ~~to any and all other laws relating to the legal investments by~~  
3 ~~school boards.~~

4           ~~(3) Investments made pursuant to this section may be~~  
5 ~~in book-entry form and may be under repurchase agreements.~~

6           ~~(4) The provisions of this section are subject to the~~  
7 ~~provisions of s. 218.415.~~

8           Section 8. Paragraph (a) of subsection (2) of section  
9 236.49, Florida Statutes, is amended to read:

10           236.49 Proceeds; how expended.--The proceeds derived  
11 from the sale of said bonds shall be held by the school board  
12 and shall be expended by the board for the purpose for which  
13 said bonds were authorized for said school district, and shall  
14 be held and expended in the manner following:

15           (2) All or any part of the fund derived from the  
16 proceeds of any such bond issue that in the judgment of the  
17 school board is not immediately needed may be placed in the  
18 following securities maturing not later than the time when the  
19 funds are reasonably expected to be needed:

20           (a) In investments listed in s. 218.415(16) ~~authorized~~  
21 ~~in s. 236.24(2)(a) for the district school fund.~~

22           Section 9. Paragraph (b) of subsection (6) of section  
23 237.211, Florida Statutes, is amended to read:

24           237.211 School depositories; payments into and  
25 withdrawals from depositories.--

26           (6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND  
27 THIRD-PARTY ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.--

28           (b) The school board is authorized to contract with an  
29 insurance company or professional administrator who holds a  
30 valid certificate of authority issued by the Department of  
31 Insurance to provide any or all services that a third-party

1 administrator is authorized by law to perform. Pursuant to  
2 such contract, the school board may advance or remit money to  
3 the administrator to be deposited in a designated special  
4 checking account for paying claims against the school board  
5 under its self-insurance programs, and remitting premiums to  
6 the providers of insured benefits on behalf of the school  
7 board and the participants in such programs, and otherwise  
8 fulfilling the obligations imposed upon the administrator by  
9 law and the contractual agreements between the school board  
10 and the administrator. The special checking account shall be  
11 maintained in a designated district school depository. The  
12 school board may replenish such account as often as necessary  
13 upon the presentation by the service organization of  
14 documentation for claims or premiums due paid equal to the  
15 amount of the requested reimbursement. Such replenishment  
16 shall be made by a warrant signed by the chair of the board  
17 and countersigned by the superintendent. Such replenishment  
18 may be made by electronic, telephonic, or other medium, and  
19 each transfer shall be confirmed in writing and signed by the  
20 superintendent or his or her designee. The provisions of  
21 strict accountability of all funds and an annual audit by an  
22 independent certified public accountant as provided in s.  
23 230.23(10)(k)~~(l)~~ shall apply to this subsection.

24 Section 10. Sections 125.31, 166.261, and 218.345,  
25 Florida Statutes, paragraph (k) of subsection (10) of section  
26 230.23, Florida Statutes, and subsection (5) of section  
27 237.161, Florida Statutes, are repealed.

28 Section 11. This act shall take effect October 1,  
29 2000.

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LEGISLATIVE SUMMARY

Requires that investment of the assets of any local retirement system or plan be consistent with a written investment policy and specifies requirements for such policies. Requires that such policies list authorized investments and prohibits investments not so listed.

Revises requirements relating to local governments' investment policies. Specifies a list of authorized investments for those local governments that adopt a written investment policy and prohibits investments not listed in the written policy. Revises various requirements for such written investment policies and requires continuing education for officials responsible for investment decisions. Revises the list of authorized investments for those local governments that do not adopt a written policy. Provides requirements relating to disposition and sale of securities by local governments. Provides that audits of local governments shall report on compliance with these requirements. Provides for notice to the Joint Legislative Auditing Committee regarding local governments not in compliance, for hearings by the committee, and for actions by specified agencies to enforce compliance. Revises various statutes to delete specific investment requirements and provide for application of these requirements.