

By the Committee on Governmental Oversight and Productivity;
and Senator Rossin

302-1136-00

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 s. 11.45, F.S.; revising authority of
17 the Department of Revenue and the Department of
18 Banking and Finance to follow up on entities
19 that fail to submit required audits; amending
20 s. 218.32, F.S.; revising authority of the
21 Department of Banking and Finance to follow up
22 on entities that fail to file annual financial
23 reports; amending s. 218.38, F.S.; revising
24 authority of the Department of Revenue and the
25 Department of Banking and Finance to follow up
26 on entities that fail to verify or file certain
27 information; amending ss. 28.33 and 219.075,
28 F.S.; providing for application of s. 218.415,
29 F.S., to investment of county funds by clerks
30 of the circuit courts and investment of surplus
31 funds by county officers; amending s. 159.416,

1 F.S.; providing for application of s. 218.415,
2 F.S., to investments made in connection with a
3 pool financing program under the Florida
4 Industrial Development Financing Act; amending
5 s. 236.24, F.S.; deleting provisions that
6 specify requirements with respect to investment
7 of surplus funds by school boards; amending s.
8 236.49, F.S.; providing for application of s.
9 218.415(16), F.S., to investment of surplus
10 funds derived from school district bond issues;
11 amending s. 237.211, F.S.; correcting a
12 reference; repealing ss. 125.31, 166.261, and
13 218.345, F.S., which specify requirements with
14 respect to investment of surplus funds by
15 counties, municipalities, and special
16 districts, s. 230.23(10)(k), F.S., which
17 provides requirements with respect to adoption
18 of investment policies by school boards, and s.
19 237.161(5), F.S., which authorizes school
20 boards to invest surplus assets as obligations
21 for a period of 1 year; providing an effective
22 date.

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

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26 Section 1. Subsections (7) and (8) of section 112.625,
27 Florida Statutes, are amended, and subsection (9) is added to
28 said section, to read:

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112.625 Definitions.--As used in this act:

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(7) "Statement value" means the value of assets in

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accordance with s. 302(c)(2) of the Employee Retirement Income

1 Security Act of 1974 and as permitted under regulations
2 prescribed by the Secretary of the Treasury. Assets for which
3 a fair market value is not provided shall be excluded from the
4 assets used in the determination of annual funding cost.

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

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

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

14 112.661 Investment policies.--Investment of the assets
15 of any local retirement system or plan must be consistent with
16 a written investment policy adopted by the board. Such
17 policies shall be structured to maximize the financial return
18 to the retirement system or plan consistent with the risks
19 incumbent in each investment and shall be structured to
20 establish and maintain an appropriate diversification of the
21 retirement system or plan's assets.

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

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

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

29 (4) INVESTMENT AND FIDUCIARY STANDARDS.--The
30 investment policy shall describe the level of prudence and
31 ethical standards to be followed by the board in carrying out

1 its investment activities with respect to funds described in
2 this section. The board in performing its investment duties
3 shall comply with the fiduciary standards set forth in the
4 Employee Retirement Income Security Act of 1974 at 29 U.S.C.
5 s. 1104(a)(1)(A)-(C). In case of conflict with other
6 provisions of law authorizing investments, the investment and
7 fiduciary standards set forth in this section shall prevail.

8 (5) AUTHORIZED INVESTMENTS.--

9 (a) The investment policy shall list investments
10 authorized by the board. Investments not listed in the
11 investment policy are prohibited. Unless otherwise authorized
12 by law or ordinance, the investment of the assets of any local
13 retirement system or plan covered by this part shall be
14 subject to the limitations and conditions set forth in s.
15 215.47(1), (2), (3), (4), (5), (6), (7), (8), (10), and (16).

16 (b) If a local retirement system or plan has
17 investments that, on October 1, 2000, either exceed the
18 applicable limit or do not satisfy the applicable investment
19 standard, such excess or investment not in compliance with the
20 policy may be continued until such time as it is economically
21 feasible to dispose of such investment. However, no additional
22 investment may be made in the investment category which
23 exceeds the applicable limit, unless authorized by law or
24 ordinance.

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

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1 maturities with known cash needs and anticipated cash-flow
2 requirements.

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

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

17 (9) EXPECTED ANNUAL RATE OF RETURN.--The investment
18 policy shall require that, for each actuarial valuation, the
19 board determine the total expected annual rate of return for
20 the current year, for each of the next several years, and for
21 the long term thereafter. This determination must be filed
22 promptly with the Department of Management Services and with
23 the plan's sponsor and the consulting actuary. The department
24 shall use this determination only to notify the board, the
25 plan's sponsor, and consulting actuary of material differences
26 between the total expected annual rate of return and the
27 actuarial assumed rate of return.

28 (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment
29 policy shall provide appropriate arrangements for the holding
30 of assets of the board. Securities should be held with a third
31 party, and all securities purchased by, and all collateral

1 obtained by, the board should be properly designated as an
2 asset of the board. No withdrawal of securities, in whole or
3 in part, shall be made from safekeeping except by an
4 authorized member of the board or the board's designee.
5 Securities transactions between a broker-dealer and the
6 custodian involving purchase or sale of securities by transfer
7 of money or securities must be made on a "delivery vs.
8 payment" basis, if applicable, to ensure that the custodian
9 will have the security or money, as appropriate, in hand at
10 the conclusion of the transaction.

11 (11) MASTER REPURCHASE AGREEMENT.--The investment
12 policy shall require all approved institutions and dealers
13 transacting repurchase agreements to execute and perform as
14 stated in the Master Repurchase Agreement. All repurchase
15 agreement transactions shall adhere to the requirements of the
16 Master Repurchase Agreement.

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

24 (13) INTERNAL CONTROLS.--The investment policy shall
25 provide for a system of internal controls and operational
26 procedures. The board shall establish a system of internal
27 controls which shall be in writing and made a part of the
28 board's operational procedures. The policy shall provide for
29 review of such controls by independent certified public
30 accountants as part of any financial audit periodically
31 required of the board's unit of local government. The internal

1 controls should be designed to prevent losses of funds which
2 might arise from fraud, error, misrepresentation by third
3 parties, or imprudent actions by the board or employees of the
4 unit of local government.

5 (14) CONTINUING EDUCATION.--The investment policy
6 shall provide for the continuing education of the board
7 members in matters relating to investments and the board's
8 responsibilities.

9 (15) REPORTING.--The investment policy shall provide
10 for appropriate annual or more frequent reporting of
11 investment activities. To that end, the board shall prepare
12 periodic reports for submission to the governing body of the
13 unit of local government which shall include investments in
14 the portfolio by class or type, book value, income earned, and
15 market value as of the report date. Such reports shall be
16 available to the public.

17 (16) FILING OF INVESTMENT POLICY.--Upon adoption by
18 the board, the investment policy shall be promptly filed with
19 the Department of Management Services and the plan's sponsor
20 and consulting actuary. The effective date of the investment
21 policy, and any amendment thereto, shall be the 31st calendar
22 day following the filing date with the plan sponsor.

23 (17) VALUATION OF ILLIQUID INVESTMENTS.--The
24 investment policy shall provide for the valuation of illiquid
25 investments for which a generally recognized market is not
26 available or for which there is no consistent or generally
27 accepted pricing mechanism. If those investments are utilized,
28 the investment policy must include the criteria set forth in
29 s. 215.47(6), except that submission to the Investment
30 Advisory Council is not required. The investment policy shall
31 require that, for each actuarial valuation, the board must

1 verify the determination of the fair market value for those
2 investments and ascertain that the determination complies with
3 all applicable state and federal requirements. The investment
4 policy shall require that the board disclose to the Department
5 of Management Services and the plan's sponsor each such
6 investment for which the fair market value is not provided.

7 Section 3. Section 218.415, Florida Statutes, is
8 amended to read:

9 218.415 Local government investment
10 policies.--Investment activity by a unit of local government
11 must be consistent with a written investment plan adopted by
12 the governing body, or in the absence of the existence of a
13 governing body, the respective principal officer of the unit
14 of local government and maintained by the unit of local
15 government or, in the alternative, such activity must be
16 conducted in accordance with ~~the investment guidelines set~~
17 ~~forth in subsection(17)(15)~~. Any such unit of local
18 government shall have an investment policy for any public
19 funds in excess of the amounts needed to meet current expenses
20 as provided in subsections(1)-(16)(1)-(14), or shall meet
21 the alternative investment guidelines contained in subsection
22 (17)(15). Such policies shall be structured to place the
23 highest priority on the safety of principal and liquidity of
24 funds. The optimization of investment returns shall be
25 secondary to the requirements for safety and liquidity. Each
26 unit of local government shall adopt policies that are
27 commensurate with the nature and size of the public funds
28 within its ~~their~~ custody.

29 (1) SCOPE.--The investment policy shall apply to funds
30 under the control of the unit of local government in excess of
31 those required to meet current expenses. The investment policy

1 shall not apply to pension funds, including those funds in
2 chapters 175 and 185, ~~trust funds~~ or funds related to the
3 issuance of debt where there are other existing policies or
4 indentures in effect for such funds.

5 (2) INVESTMENT OBJECTIVES.--The investment policy
6 shall describe the investment objectives of the unit of local
7 government. Investment objectives shall include safety of
8 capital, liquidity of funds, and investment income, in that
9 order.

10 (3) PERFORMANCE MEASUREMENT.--The investment policy
11 ~~unit of local government~~ shall specify develop performance
12 measures as are appropriate for the nature and size of the
13 public funds within the its custody of the unit of local
14 government.

15 (4) PRUDENCE AND ETHICAL STANDARDS.--The investment
16 policy shall describe the level of prudence and ethical
17 standards to be followed by the unit of local government in
18 carrying out its investment activities with respect to funds
19 described in this section. The unit of local government shall
20 adopt the Prudent Person Rule, which states that: "Investments
21 should be made with judgment and care, under circumstances
22 then prevailing, which persons of prudence, discretion, and
23 intelligence exercise in the management of their own affairs,
24 not for speculation, but for investment, considering the
25 probable safety of their capital as well as the probable
26 income to be derived from the investment."

27 (5) LISTING OF AUTHORIZED INVESTMENTS.--The investment
28 policy shall list investments authorized by the governing body
29 of the unit of local government, subject to the provisions of
30 subsection (16) investments. Investments not listed in the
31 investment policy are prohibited. If the policy authorizes

1 investments in derivative products, the policy must require
2 that must be specifically authorized in the investment plan
3 ~~and may be considered only if~~ the unit of local government's
4 officials responsible for making investment decisions or chief
5 financial officer have ~~has~~ developed sufficient understanding
6 of the derivative products and have ~~has~~ the expertise to
7 manage them. For purposes of this subsection, a "derivative"
8 is defined as a financial instrument the value of which
9 depends on, or is derived from, the value of one or more
10 underlying assets or index or asset values. If the policy
11 authorizes investments in ~~The use of~~ reverse repurchase
12 agreements or other forms of leverage, the policy must limit
13 the investments shall be prohibited or limited by investment
14 ~~policy~~ to transactions in which ~~where~~ the proceeds are
15 intended to provide liquidity and for which the unit of local
16 government has sufficient resources and expertise.

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

25 (7) PORTFOLIO COMPOSITION.--The investment policy
26 shall establish guidelines for investments and limits on
27 security issues, issuers, and maturities. Such guidelines
28 shall be commensurate with the nature and size of the public
29 funds within the custody of the unit of local government.

30 (8) RISK AND DIVERSIFICATION.--The investment policy
31 shall provide for appropriate diversification of the

1 investment portfolio. Investments held should be diversified
2 to the extent practicable to control the risk of loss
3 resulting from overconcentration of assets in a specific
4 maturity, issuer, instrument, dealer, or bank through which
5 financial instruments are bought and sold. Diversification
6 strategies within the established guidelines shall be reviewed
7 and revised periodically, as deemed necessary by the
8 appropriate management staff.

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

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

28 (11) MASTER REPURCHASE AGREEMENT.--The investment
29 policy ~~unit of local government~~ shall require all approved
30 institutions and dealers transacting repurchase agreements to
31 execute and perform as stated in the Master Repurchase

1 Agreement. All repurchase agreement transactions shall adhere
2 to the requirements of the Master Repurchase Agreement.

3 (12) BID REQUIREMENT.--The investment policy shall
4 require that the unit of local government's staff determine
5 the approximate maturity date based on cash-flow needs and
6 market conditions, analyze and select one or more optimal
7 types of investment, and competitively bid the security in
8 question when feasible and appropriate. Except as otherwise
9 required by law, the bid deemed to best meet the investment
10 objectives specified in subsection (2) must be selected.~~After~~
11 ~~the unit of local government staff has determined the~~
12 ~~approximate maturity date based on cash-flow needs and market~~
13 ~~conditions and has analyzed and selected one or more optimal~~
14 ~~types of investment, the security in question shall, when~~
15 ~~feasible and appropriate, 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 officials
19 responsible for making investment decisions or chief financial
20 officer shall, by January 1, 1996, establish a system of
21 internal controls which shall be in writing and made a part of
22 the governmental entity's operational procedures. The
23 investment policy shall provide for review of such controls by
24 independent auditors as part of any financial audit
25 periodically required of the unit of local government. The
26 internal controls should be designed to prevent losses of
27 funds which might arise from fraud, employee error,
28 misrepresentation by third parties, or imprudent actions by
29 employees of the unit of local government.

30 (14) CONTINUING EDUCATION.--The investment policy
31 shall provide for the continuing education of the unit of

1 local government's officials responsible for making investment
2 decisions or chief financial officer. Such officials must
3 annually complete 8 hours of continuing education in subjects
4 or courses of study related to investment practices and
5 products.

6 (15)~~(14)~~ REPORTING.--The investment policy shall
7 provide for appropriate annual or more frequent reporting of
8 investment activities. To that end, the governmental entity's
9 officials responsible for making investment decisions or chief
10 financial officer shall prepare periodic reports for
11 submission to the legislative and governing body of the unit
12 of local government, which shall include securities in the
13 portfolio by class or type, book value, income earned, and
14 market value as of the report date. Such reports shall be
15 available to the public.

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

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

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

28 (c) Interest-bearing time deposits or savings accounts
29 in qualified public depositories as defined in s. 280.02.

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

31 (e) Federal agencies and instrumentalities.

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

12 (g) Other investments authorized by law or by
13 ordinance.

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

29 (a) The Local Government Surplus Funds Trust Fund, or
30 any intergovernmental investment pool authorized pursuant to
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1 the Florida Interlocal Cooperation Act, as provided in s.
2 163.01.

3 (b) Securities and Exchange Commission registered
4 money market funds with the highest credit quality rating from
5 a nationally recognized rating agency.

6 (c) Interest-bearing time deposits or savings accounts
7 ~~in state-certified~~ qualified public depositories, as defined
8 in s. 280.02.

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

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

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

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

18 (18) SECURITIES; DISPOSITION.--

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

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

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

1 trusts and which is doing business in this state, and must be
2 kept by the depository in an account separate and apart from
3 the assets of the financial institution; or

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

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

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

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

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1 (21) PREEMPTION.--Any provision of any special act,
2 municipal charter, or other law which prohibits or restricts a
3 local governmental entity from complying with this section or
4 any rules adopted under this section is void to the extent of
5 the conflict.

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

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

22 (a) In the case of a county, municipality, or district
23 school board, request the Department of Revenue and the
24 Department of Banking and Finance to withhold any funds not
25 pledged for bond debt service satisfaction which are payable
26 to such governmental entity. The Department of Revenue and the
27 Department of Banking and Finance are authorized to implement
28 the provisions of this paragraph. The committee, in its
29 request, shall specify the date such action shall begin, and
30 the request must be received by the Department of Revenue and
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1 the Department of Banking and Finance 30 days before the date
2 of the distribution mandated by law.

3 (b) In the case of a special district, notify the
4 Department of Community Affairs that the special district has
5 failed to comply with this section. Upon receipt of
6 notification, the Department of Community Affairs shall
7 proceed pursuant to the provisions specified in ss. 189.421
8 and 189.422.

9 Section 4. Paragraph (a) of subsection (3) of section
10 11.45, Florida Statutes, is amended to read:

11 11.45 Definitions; duties; audits; reports.--

12 (3)(a)1. The Auditor General shall annually make
13 financial audits of the accounts and records of all state
14 agencies, as defined in this section, of all district school
15 boards in counties with populations of fewer than 125,000,
16 according to the most recent federal decennial statewide
17 census, and of all district boards of trustees of community
18 colleges. The Auditor General shall, at least every other
19 year, make operational audits of the accounts and records of
20 all state agencies, as defined in this section. The Auditor
21 General shall, at least once every 3 years, make financial
22 audits of the accounts and records of all district school
23 boards in counties with populations of 125,000 or more. For
24 each of the 2 years that the Auditor General does not make the
25 financial audit, each district school board shall contract for
26 an independent certified public accountant to perform a
27 financial audit as defined in paragraph (1)(b). This section
28 does not limit the Auditor General's discretionary authority
29 to conduct performance audits of these governmental entities
30 as authorized in subparagraph 3. A district school board may
31 select an independent certified public accountant to perform a

1 financial audit as defined in paragraph (1)(b) notwithstanding
2 the notification provisions of this section. In addition, a
3 district school board may employ an internal auditor to
4 perform ongoing financial verification of the financial
5 records of a school district, who must report directly to the
6 district school board or its designee. The Auditor General
7 shall, at a minimum, provide to the successor independent
8 certified public accountant of a district school board the
9 prior year's working papers, including documentation of
10 planning, internal control, audit results, and other matters
11 of continuing accounting and auditing significance, such as
12 the working paper analysis of balance sheet accounts and those
13 relating to contingencies.

14 2. Each charter school established under s. 228.056
15 shall have an annual financial audit of its accounts and
16 records completed within 12 months after the end of its fiscal
17 year by an independent certified public accountant retained by
18 it and paid from its funds. The independent certified public
19 accountant who is selected to perform an annual financial
20 audit of the charter school shall provide a copy of the audit
21 report to the district school board, the Department of
22 Education, and the Auditor General. A management letter must
23 be prepared and included as a part of each financial audit
24 report. The Auditor General may, pursuant to his or her own
25 authority or at the direction of the Joint Legislative
26 Auditing Committee, conduct an audit of a charter school.

27 3. The Auditor General may at any time make financial
28 audits and performance audits of the accounts and records of
29 all governmental entities created pursuant to law. The audits
30 referred to in this subparagraph must be made whenever
31 determined by the Auditor General, whenever directed by the

1 Legislative Auditing Committee, or whenever otherwise required
2 by law or concurrent resolution. A district school board,
3 expressway authority, or bridge authority may require that the
4 annual financial audit of its accounts and records be
5 completed within 12 months after the end of its fiscal year.

6 If the Auditor General is unable to meet that requirement, the
7 Auditor General shall notify the school board, the expressway
8 authority, or the bridge authority pursuant to subparagraph 5.

9 4. The Office of Program Policy Analysis and
10 Government Accountability within the Office of the Auditor
11 General shall maintain a schedule of performance audits of
12 state programs. In conducting a performance audit of a state
13 program, the Office of Program Policy Analysis and Government
14 Accountability, when appropriate, shall identify and comment
15 upon alternatives for accomplishing the goals of the program
16 being audited. Such alternatives may include funding
17 techniques and, if appropriate, must describe how other states
18 or governmental units accomplish similar goals.

19 5. If by July 1 in any fiscal year a district school
20 board or local governmental entity has not been notified that
21 a financial audit for that fiscal year will be performed by
22 the Auditor General pursuant to subparagraph 3., each
23 municipality with either revenues or expenditures of more than
24 \$100,000, each special district with either revenues or
25 expenditures of more than \$50,000, and each county agency
26 shall, and each district school board may, require that an
27 annual financial audit of its accounts and records be
28 completed, within 12 months after the end of its respective
29 fiscal year, by an independent certified public accountant
30 retained by it and paid from its public funds. An independent
31 certified public accountant who is selected to perform an

1 annual financial audit of a school district must report
2 directly to the district school board or its designee. A
3 management letter must be prepared and included as a part of
4 each financial audit report. Each local government finance
5 commission, board, or council, and each municipal power
6 corporation, created as a separate legal or administrative
7 entity by interlocal agreement under s. 163.01(7), shall
8 provide the Auditor General, within 12 months after the end of
9 its fiscal year, with an annual financial audit report of its
10 accounts and records and a written statement or explanation or
11 rebuttal concerning the auditor's comments, including
12 corrective action to be taken. The county audit shall be one
13 document that includes a separate audit of each county agency.
14 The county audit must include an audit of the deposits into
15 and expenditures from the Public Records Modernization Trust
16 Fund. The Auditor General shall tabulate the results of the
17 audits of the Public Records Modernization Trust Fund and
18 report a summary of the audits to the Legislature annually.

19 6. The governing body of a municipality, special
20 district, or charter school must establish an auditor
21 selection committee and competitive auditor selection
22 procedures. The governing board may elect to use its own
23 competitive auditor selection procedures or the procedures
24 outlined in subparagraph 7.

25 7. The governing body of a noncharter county or
26 district school board that retains a certified public
27 accountant must establish an auditor selection committee and
28 select an independent certified public accountant according to
29 the following procedure:

30 a. For each noncharter county, the auditor selection
31 committee must consist of the county officers elected pursuant

1 to s. 1(d), Art. VIII of the State Constitution, and one
2 member of the board of county commissioners or its designee.

3 b. The committee shall publicly announce, in a uniform
4 and consistent manner, each occasion when auditing services
5 are required to be purchased. Public notice must include a
6 general description of the audit and must indicate how
7 interested certified public accountants can apply for
8 consideration.

9 c. The committee shall encourage firms engaged in the
10 lawful practice of public accounting who desire to provide
11 professional services to submit annually a statement of
12 qualifications and performance data.

13 d. Any certified public accountant desiring to provide
14 auditing services must first be qualified pursuant to law. The
15 committee shall make a finding that the firm or individual to
16 be employed is fully qualified to render the required
17 services. Among the factors to be considered in making this
18 finding are the capabilities, adequacy of personnel, past
19 record, and experience of the firm or individual.

20 e. The committee shall adopt procedures for the
21 evaluation of professional services, including, but not
22 limited to, capabilities, adequacy of personnel, past record,
23 experience, results of recent external quality control
24 reviews, and such other factors as may be determined by the
25 committee to be applicable to its particular requirements.

26 f. The public must not be excluded from the
27 proceedings under this subparagraph.

28 g. The committee shall evaluate current statements of
29 qualifications and performance data on file with the
30 committee, together with those that may be submitted by other
31 firms regarding the proposed audit, and shall conduct

1 discussions with, and may require public presentations by, no
2 fewer than three firms regarding their qualifications,
3 approach to the audit, and ability to furnish the required
4 services.

5 h. The committee shall select no fewer than three
6 firms deemed to be the most highly qualified to perform the
7 required services after considering such factors as the
8 ability of professional personnel; past performance;
9 willingness to meet time requirements; location; recent,
10 current, and projected workloads of the firms; and the volume
11 of work previously awarded to the firm by the agency, with the
12 object of effecting an equitable distribution of contracts
13 among qualified firms, provided such distribution does not
14 violate the principle of selection of the most highly
15 qualified firms. If fewer than three firms desire to perform
16 the services, the committee shall recommend such firms as it
17 determines to be qualified.

18 i. If the governing board receives more than one
19 proposal for the same engagement, the board may rank, in order
20 of preference, the firms to perform the engagement. The firm
21 ranked first may then negotiate a contract with the board
22 giving, among other things, a basis of its fee for that
23 engagement. If the board is unable to negotiate a
24 satisfactory contract with that firm, negotiations with that
25 firm shall be formally terminated, and the board shall then
26 undertake negotiations with the second-ranked firm. Failing
27 accord with the second-ranked firm, negotiations shall then be
28 terminated with that firm and undertaken with the third-ranked
29 firm. Negotiations with the other ranked firms shall be
30 undertaken in the same manner. The board, in negotiating with
31 firms, may reopen formal negotiations with any one of the

1 three top-ranked firms, but it may not negotiate with more
2 than one firm at a time. The board shall also negotiate on the
3 scope and quality of services. In making such determination,
4 the board shall conduct a detailed analysis of the cost of the
5 professional services required in addition to considering
6 their scope and complexity. For contracts over \$50,000, the
7 board shall require the firm receiving the award to execute a
8 truth-in-negotiation certificate stating that the rates of
9 compensation and other factual unit costs supporting the
10 compensation are accurate, complete, and current at the time
11 of contracting. Such certificate shall also contain a
12 description and disclosure of any understanding that places a
13 limit on current or future years' audit contract fees,
14 including any arrangements under which fixed limits on fees
15 will not be subject to reconsideration if unexpected
16 accounting or auditing issues are encountered. Such
17 certificate shall also contain a description of any services
18 rendered by the certified public accountant or firm of
19 certified public accountants at rates or terms that are not
20 customary. Any auditing service contract under which such a
21 certificate is required must contain a provision that the
22 original contract price and any additions thereto shall be
23 adjusted to exclude any significant sums by which the board
24 determines the contract price was increased due to inaccurate
25 or incomplete factual unit costs. All such contract
26 adjustments shall be made within 1 year following the end of
27 the contract.

28 j. If the board is unable to negotiate a satisfactory
29 contract with any of the selected firms, the committee shall
30 select additional firms, and the board shall continue
31

1 negotiations in accordance with this subsection until an
2 agreement is reached.

3 8. At the conclusion of the audit field work, the
4 independent certified public accountant shall discuss with the
5 head of each local governmental entity or the chair's designee
6 or with the chair of the district school board or the chair's
7 designee, or with the chair of the board of the charter school
8 or the chair's designee, as appropriate, all of the auditor's
9 comments that will be included in the audit report. If the
10 officer is not available to discuss the auditor's comments,
11 their discussion is presumed when the comments are delivered
12 in writing to his or her office. The auditor shall notify each
13 member of the governing body of a local governmental entity
14 for which deteriorating financial conditions exist which may
15 cause a condition described in s. 218.503(1) to occur if
16 actions are not taken to address such conditions.

17 9. The officer's written statement of explanation or
18 rebuttal concerning the auditor's comments, including
19 corrective action to be taken, must be filed with the
20 governing body of the local governmental entity, district
21 school board, or charter school within 30 days after the
22 delivery of the financial audit report.

23 10. The Auditor General, in consultation with the
24 Board of Accountancy, shall adopt rules for the form and
25 conduct of all financial audits subject to this section and
26 conducted by independent certified public accountants. The
27 Auditor General, in consultation with the Department of
28 Education, shall develop a compliance supplement for the
29 financial audit of a district school board conducted by an
30 independent certified public accountant. The rules for audits
31 of local governmental entities and district school boards must

1 include, but are not limited to, requirements for the
2 reporting of information necessary to carry out the purposes
3 of the Local Government Financial Emergencies Act as stated in
4 s. 218.501.

5 11. Any local governmental entity or district school
6 board financial audit report required under subparagraph 5. or
7 charter school financial audit report required under
8 subparagraph 2. and the officer's written statement of
9 explanation or rebuttal concerning the auditor's comments,
10 including corrective action to be taken, must be submitted to
11 the Auditor General within 45 days after delivery of the audit
12 report to the local governmental entity, district school
13 board, or charter school, but no later than 12 months after
14 the end of the fiscal year. If the Auditor General does not
15 receive the financial audit report within the prescribed
16 period, he or she must notify the Legislative Auditing
17 Committee that the governmental entity or charter school has
18 not complied with this subparagraph. Following notification of
19 failure to submit the required audit report or items required
20 by rule adopted by the Auditor General, a hearing must be
21 scheduled by rule of the committee. After the hearing, the
22 committee shall determine which governmental entities or
23 charter schools will be subjected to further state action. If
24 it finds that one or more governmental entities or charter
25 schools should be subjected to further state action, the
26 committee shall:

27 a. In the case of a local governmental entity,
28 district school board, or charter school, request the
29 Department of Revenue and the Department of Banking and
30 Finance to withhold any funds not pledged for bond debt
31 service satisfaction which are payable to such governmental

1 entity or charter school until the required financial audit is
2 received by the Auditor General. The Department of Revenue and
3 the Department of Banking and Finance are authorized to
4 implement the provisions of this sub-subparagraph. The
5 committee, in its request, shall specify the date such action
6 shall begin, and the request must be received by the
7 Department of Revenue and the Department of Banking and
8 Finance 30 days before the date of the distribution mandated
9 by law.

10 b. In the case of a special district, notify the
11 Department of Community Affairs that the special district has
12 failed to provide the required audits. Upon receipt of
13 notification, the Department of Community Affairs shall
14 proceed pursuant to ss. 189.421 and 189.422.

15 12.a. The Auditor General, in consultation with the
16 Board of Accountancy, shall review all audit reports submitted
17 pursuant to subparagraph 11. The Auditor General shall request
18 any significant items that were omitted in violation of a rule
19 adopted by the Auditor General. The items must be provided
20 within 45 days after the date of the request. If the Auditor
21 General does not receive the requested items, he or she shall
22 notify the Joint Legislative Auditing Committee.

23 b. The Auditor General shall notify the Governor and
24 the Joint Legislative Auditing Committee of any audit report
25 reviewed by the Auditor General which contains a statement
26 that the local governmental entity or district school board is
27 in a state of financial emergency as provided in s. 218.503.
28 If the Auditor General, in reviewing any audit report,
29 identifies additional information which indicates that the
30 local governmental entity or district school board may be in a
31 state of financial emergency as provided in s. 218.503, the

1 Auditor General shall request appropriate clarification from
2 the local governmental entity or district school board. The
3 requested clarification must be provided within 45 days after
4 the date of the request. If the Auditor General does not
5 receive the requested clarification, he or she shall notify
6 the Joint Legislative Auditing Committee. If, after obtaining
7 the requested clarification, the Auditor General determines
8 that the local governmental entity or district school board is
9 in a state of financial emergency as provided in s. 218.503,
10 he or she shall notify the Governor and the Joint Legislative
11 Auditing Committee.

12 c. The Auditor General shall annually compile and
13 transmit to the President of the Senate, the Speaker of the
14 House of Representatives, and the Joint Legislative Auditing
15 Committee a summary of significant findings and financial
16 trends identified in audits of local governmental entities,
17 district school boards, and charter schools performed by the
18 independent certified public accountants.

19 13. In conducting a performance audit of any agency,
20 the Auditor General shall use the Agency Strategic Plan of the
21 agency in evaluating the performance of the agency.

22 Section 5. Paragraph (e) of subsection (1) of section
23 218.32, Florida Statutes, is amended to read:

24 218.32 Annual financial reports; local governmental
25 entities.--

26 (1)

27 (e) If the department does not receive a completed
28 annual financial report from a local governmental entity
29 within the required period, it shall notify the Legislative
30 Auditing Committee of the failure to report. Following receipt
31 of notification of failure to report, the committee shall

1 schedule a hearing for the purpose of receiving additional
2 testimony addressing the failure of local governmental
3 entities to comply with the reporting requirements of this
4 section. After the hearing, the committee shall determine
5 which local governmental entities will be subjected to further
6 state action. If it finds that one or more local governmental
7 entities should be subjected to further state action, the
8 committee shall:

9 1. In the case of a county or municipality, request
10 the Department of Revenue and the Department of Banking and
11 Finance to withhold any funds not pledged for bond debt
12 service satisfaction which are payable to the county or
13 municipality until the required annual financial report is
14 received by the department. The Department of Revenue and the
15 Department of Banking and Finance are authorized to implement
16 the provisions of this subparagraph. The committee, in its
17 request, shall specify the date such action shall begin, and
18 the request must be received by the Department of Revenue and
19 the Department of Banking and Finance 30 days before the date
20 of distribution mandated by law.

21 2. In the case of a special district, notify the
22 Department of Community Affairs that the special district has
23 failed to provide the required annual financial report. Upon
24 notification, the Department of Community Affairs shall
25 proceed pursuant to ss. 189.421 and 189.422.

26 3. In the case of a special district that is a
27 component unit and that did not provide the financial
28 information required by paragraph (b) to the applicable
29 reporting entity, notify the Department of Community Affairs
30 that the special district has failed to provide the required
31 financial information. Upon notification, the Department of

1 Community Affairs shall proceed pursuant to ss. 189.421 and
2 189.422.

3 Section 6. Paragraph (a) of subsection (3) of section
4 218.38, Florida Statutes, is amended to read:

5 218.38 Notice of bond issues required; verification.--

6 (3) If a unit of local government fails to verify
7 pursuant to subsection (2) the information held by the
8 division, or fails to provide the information required by
9 subsection (1), the division shall notify the Legislative
10 Auditing Committee of such failure to comply. Following
11 receipt of such notification of failure to comply with these
12 provisions, a hearing shall be scheduled by the committee for
13 the purpose of receiving testimony addressing the failure of
14 units of local government to comply with the requirements of
15 this section. After the hearing, the committee shall
16 determine which units of local government will be subjected to
17 further state action. If it finds that one or more units of
18 local government should be subjected to further state action,
19 the committee shall:

20 (a) In the case of a unit of local government, request
21 the Department of Revenue and the Department of Banking and
22 Finance to withhold any funds not pledged for bond debt
23 service satisfaction which are payable to such governmental
24 entity. The Department of Revenue and the Department of
25 Banking and Finance are authorized to implement the provisions
26 of this paragraph. The committee, in its request, shall
27 specify the date such action shall begin, and the request must
28 be received by the Department of Revenue and the Department of
29 Banking and Finance 30 days before the date of the
30 distribution mandated by law.

31

1 Section 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. This act shall take effect October 1,
29 2000.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 372

Clarifies that the chief financial officer and other officials responsible for making decisions must have sufficient understanding of the derivative products and have the expertise to manage them.

Changes provision requiring selection of most economically advantageous bid, to selection of the bid that best meets specified investment options.

Eliminates provision authorizing investment of surplus public funds in savings accounts in, or certificates of deposit of any bank, savings bank, or savings and loan and substitutes interest-bearing time deposits or savings accounts in qualified public depositories as defined in s. 280.02, F.S.

Requires Department of Banking and Finance to withhold any funds not pledged for bond debt service satisfaction which are payable to government entity. Authorizing the Department of Revenue and the Department of Banking and Finance to implement the provision.