

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.

23

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

25

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:

29 112.625 Definitions.--As used in this act:

30 (7) "Statement value" means the value of assets in  
31 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

31

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 for a county or a municipality.

14           (h) Other investments authorized by law or by  
15 resolution for a school district or a special district.

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

31

1 (a) The Local Government Surplus Funds Trust Fund, or  
2 any intergovernmental investment pool authorized pursuant to  
3 the Florida Interlocal Cooperation Act, as provided in s.  
4 163.01.

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

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

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

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

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

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

20 (18) SECURITIES; DISPOSITION.--

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

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

27 2. If in book entry form, must be held for the credit  
28 of the governing body by a depository chartered by the Federal  
29 Government, the state, or any other state or territory of the  
30 United States which has a branch or principal place of  
31 business in this state as defined in s. 658.12, or by a



1 national association organized and existing under the laws of  
2 the United States which is authorized to accept and execute  
3 trusts and which is doing business in this state, and must be  
4 kept by the depository in an account separate and apart from  
5 the assets of the financial institution; or

6 3. If physically issued to the holder but not  
7 registered with the issuer or its agents, must be immediately  
8 placed for safekeeping in a secured vault.

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 or for more optimal investments, the unit of local  
25 government's governing body may sell such investments at the  
26 then-prevailing market price and place the proceeds into the  
27 proper account or fund of the unit 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.

31

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 contact those units of  
13 local government not in compliance with this section and  
14 request evidence of corrective action. If the unit of local  
15 government does not provide the Auditor General with evidence  
16 of corrective action within 45 days after the date it is  
17 requested, the Auditor General shall then notify the Joint  
18 Legislative Auditing Committee of any unit of local government  
19 not in compliance with this section. Following notification of  
20 failure by a local government to comply with this section, a  
21 hearing may be scheduled by the committee. If a hearing is  
22 scheduled, the committee shall determine which units of local  
23 government will be subjected to further state action. If the  
24 committee finds that one or more units of local government  
25 should be subjected to further state action, the committee  
26 shall:

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

1 Department of Banking and Finance are authorized to implement  
2 the provisions of this paragraph. The committee, in its  
3 request, shall specify the date such action shall begin, and  
4 the request must be received by the Department of Revenue and  
5 the Department of Banking and Finance 30 days before the date  
6 of the distribution mandated by law.

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

13 Section 4. Paragraph (a) of subsection (3) of section  
14 11.45, Florida Statutes, is amended to read:

15 11.45 Definitions; duties; audits; reports.--

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

1 does not limit the Auditor General's discretionary authority  
2 to conduct performance audits of these governmental entities  
3 as authorized in subparagraph 3. A district school board may  
4 select an independent certified public accountant to perform a  
5 financial audit as defined in paragraph (1)(b) notwithstanding  
6 the notification provisions of this section. In addition, a  
7 district school board may employ an internal auditor to  
8 perform ongoing financial verification of the financial  
9 records of a school district, who must report directly to the  
10 district school board or its designee. The Auditor General  
11 shall, at a minimum, provide to the successor independent  
12 certified public accountant of a district school board the  
13 prior year's working papers, including documentation of  
14 planning, internal control, audit results, and other matters  
15 of continuing accounting and auditing significance, such as  
16 the working paper analysis of balance sheet accounts and those  
17 relating to contingencies.

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

31

1           3. The Auditor General may at any time make financial  
2 audits and performance audits of the accounts and records of  
3 all governmental entities created pursuant to law. The audits  
4 referred to in this subparagraph must be made whenever  
5 determined by the Auditor General, whenever directed by the  
6 Legislative Auditing Committee, or whenever otherwise required  
7 by law or concurrent resolution. A district school board,  
8 expressway authority, or bridge authority may require that the  
9 annual financial audit of its accounts and records be  
10 completed within 12 months after the end of its fiscal year.  
11 If the Auditor General is unable to meet that requirement, the  
12 Auditor General shall notify the school board, the expressway  
13 authority, or the bridge authority pursuant to subparagraph 5.

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

24           5. If by July 1 in any fiscal year a district school  
25 board or local governmental entity has not been notified that  
26 a financial audit for that fiscal year will be performed by  
27 the Auditor General pursuant to subparagraph 3., each  
28 municipality with either revenues or expenditures of more than  
29 \$100,000, each special district with either revenues or  
30 expenditures of more than \$50,000, and each county agency  
31 shall, and each district school board may, require that an

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

24         6. The governing body of a municipality, special  
25 district, or charter school must establish an auditor  
26 selection committee and competitive auditor selection  
27 procedures. The governing board may elect to use its own  
28 competitive auditor selection procedures or the procedures  
29 outlined in subparagraph 7.

30         7. The governing body of a noncharter county or  
31 district school board that retains a certified public

1 accountant must establish an auditor selection committee and  
2 select an independent certified public accountant according to  
3 the following procedure:

4 a. For each noncharter county, the auditor selection  
5 committee must consist of the county officers elected pursuant  
6 to s. 1(d), Art. VIII of the State Constitution, and one  
7 member of the board of county commissioners or its designee.

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

14 c. The committee shall encourage firms engaged in the  
15 lawful practice of public accounting who desire to provide  
16 professional services to submit annually a statement of  
17 qualifications and performance data.

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

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

31

1 f. The public must not be excluded from the  
2 proceedings under this subparagraph.

3 g. The committee shall evaluate current statements of  
4 qualifications and performance data on file with the  
5 committee, together with those that may be submitted by other  
6 firms regarding the proposed audit, and shall conduct  
7 discussions with, and may require public presentations by, no  
8 fewer than three firms regarding their qualifications,  
9 approach to the audit, and ability to furnish the required  
10 services.

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

24 i. If the governing board receives more than one  
25 proposal for the same engagement, the board may rank, in order  
26 of preference, the firms to perform the engagement. The firm  
27 ranked first may then negotiate a contract with the board  
28 giving, among other things, a basis of its fee for that  
29 engagement. If the board is unable to negotiate a  
30 satisfactory contract with that firm, negotiations with that  
31 firm shall be formally terminated, and the board shall then



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

1 adjustments shall be made within 1 year following the end of  
2 the contract.

3 j. If the board is unable to negotiate a satisfactory  
4 contract with any of the selected firms, the committee shall  
5 select additional firms, and the board shall continue  
6 negotiations in accordance with this subsection until an  
7 agreement is reached.

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

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

28 10. The Auditor General, in consultation with the  
29 Board of Accountancy, shall adopt rules for the form and  
30 conduct of all financial audits subject to this section and  
31 conducted by independent certified public accountants. The

1 Auditor General, in consultation with the Department of  
2 Education, shall develop a compliance supplement for the  
3 financial audit of a district school board conducted by an  
4 independent certified public accountant. The rules for audits  
5 of local governmental entities and district school boards must  
6 include, but are not limited to, requirements for the  
7 reporting of information necessary to carry out the purposes  
8 of the Local Government Financial Emergencies Act as stated in  
9 s. 218.501.

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

1           a. In the case of a local governmental entity,  
2 district school board, or charter school, request the  
3 Department of Revenue and the Department of Banking and  
4 Finance to withhold any funds not pledged for bond debt  
5 service satisfaction which are payable to such governmental  
6 entity or charter school until the required financial audit is  
7 received by the Auditor General. The Department of Revenue and  
8 the Department of Banking and Finance are authorized to  
9 implement the provisions of this sub-subparagraph. The  
10 committee, in its request, shall specify the date such action  
11 shall begin, and the request must be received by the  
12 Department of Revenue and the Department of Banking and  
13 Finance 30 days before the date of the distribution mandated  
14 by law.

15           b. In the case of a special district, notify the  
16 Department of Community Affairs that the special district has  
17 failed to provide the required audits. Upon receipt of  
18 notification, the Department of Community Affairs shall  
19 proceed pursuant to ss. 189.421 and 189.422.

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

28           b. The Auditor General shall notify the Governor and  
29 the Joint Legislative Auditing Committee of any audit report  
30 reviewed by the Auditor General which contains a statement  
31 that the local governmental entity or district school board is

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

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

24 13. In conducting a performance audit of any agency,  
25 the Auditor General shall use the Agency Strategic Plan of the  
26 agency in evaluating the performance of the agency.

27 Section 5. Paragraph (e) of subsection (1) of section  
28 218.32, Florida Statutes, is amended to read:

29 218.32 Annual financial reports; local governmental  
30 entities.--

31 (1)

1 (e) If the department does not receive a completed  
2 annual financial report from a local governmental entity  
3 within the required period, it shall notify the Legislative  
4 Auditing Committee of the failure to report. Following receipt  
5 of notification of failure to report, the committee shall  
6 schedule a hearing for the purpose of receiving additional  
7 testimony addressing the failure of local governmental  
8 entities to comply with the reporting requirements of this  
9 section. After the hearing, the committee shall determine  
10 which local governmental entities will be subjected to further  
11 state action. If it finds that one or more local governmental  
12 entities should be subjected to further state action, the  
13 committee shall:

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

26 2. In the case of a special district, notify the  
27 Department of Community Affairs that the special district has  
28 failed to provide the required annual financial report. Upon  
29 notification, the Department of Community Affairs shall  
30 proceed pursuant to ss. 189.421 and 189.422.

31

1           3. In the case of a special district that is a  
2 component unit and that did not provide the financial  
3 information required by paragraph (b) to the applicable  
4 reporting entity, notify the Department of Community Affairs  
5 that the special district has failed to provide the required  
6 financial information. Upon notification, the Department of  
7 Community Affairs shall proceed pursuant to ss. 189.421 and  
8 189.422.

9           Section 6. Paragraph (a) of subsection (3) of section  
10 218.38, Florida Statutes, is amended to read:

11           218.38 Notice of bond issues required; verification.--

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

26           (a) In the case of a unit of local government, request  
27 the Department of Revenue and the Department of Banking and  
28 Finance to withhold any funds not pledged for bond debt  
29 service satisfaction which are payable to such governmental  
30 entity. The Department of Revenue and the Department of  
31 Banking and Finance are authorized to implement the provisions

1 of this paragraph. The committee, in its request, shall  
2 specify the date such action shall begin, and the request must  
3 be received by the Department of Revenue and the Department of  
4 Banking and Finance 30 days before the date of the  
5 distribution mandated by law.

6 Section 7. Section 28.33, Florida Statutes, is amended  
7 to read:

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



1 investing such funds shall be liable for the loss of any  
2 interest when circumstances require the withdrawal of funds  
3 placed in a time deposit and needed for immediate payment of  
4 county obligations. ~~In any county where local banks refuse to  
5 bid on securing such money on interest-bearing certificates,  
6 the clerk may request and receive bids from banks in other  
7 counties within the state and make such deposits to the  
8 successful bidder.~~ Except for interest earned on moneys  
9 deposited in the registry of the court, all interest accruing  
10 from moneys deposited shall be deemed income of the office of  
11 the clerk of the circuit court investing such moneys and shall  
12 be deposited in the same account as are other fees and  
13 commissions of the clerk's office. The clerk may invest  
14 moneys deposited in the registry of the court and shall retain  
15 as income of the office of the clerk and as a reasonable  
16 investment management fee 10 percent of the interest accruing  
17 on those funds with the balance of such interest being  
18 allocated in accordance with the interest of the depositors.  
19 ~~Each clerk shall, as soon as practicable after the end of the  
20 fiscal year, report to the county governing authority the  
21 total interest earned on all investments during the preceding  
22 year.~~

23 Section 8. Subsection (9) of section 159.416, Florida  
24 Statutes, is amended to read:

25 159.416 Pool financings.--

26 (9) Proceeds of bonds and moneys held for the payment  
27 of debt service on bonds, including, but not limited to,  
28 amounts held in the loan fund, any reserve fund, or debt  
29 service fund for the bonds, may be invested in investments  
30 authorized by or pursuant to an ordinance or resolution  
31 providing for the issuance of the bonds or any trust agreement

1 or trust indenture or other instrument approved by such  
 2 ordinance or resolution, including, but not limited to,  
 3 investments described in s. 218.415 ~~ss. 28.33, 125.31,~~  
 4 ~~166.261, 218.345, 219.075, and 236.24~~ and chapter 280. The  
 5 acquisition of any debt obligation or investment contract or  
 6 investment agreement of any bank, savings and loan  
 7 association, insurance company, registered broker-dealer, or  
 8 other financial institution shall be deemed to be an  
 9 investment and not a loan and therefore need not meet the  
 10 criteria of subsections (5), (6), and (7).

11 Section 9. Section 219.075, Florida Statutes, is  
 12 amended to read:

13 219.075 Investment of surplus funds by county  
 14 officers.--

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

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

26 2. ~~Bonds, notes, or other obligations of the United~~  
 27 ~~States guaranteed by the United States or for which the credit~~  
 28 ~~of the United States is pledged for the payment of the~~  
 29 ~~principal and interest or dividends;~~

30 3. ~~Interest-bearing time deposits or savings accounts~~  
 31 ~~in banks organized under the laws of this state, in national~~

1 ~~banks organized under the laws of the United States and doing~~  
2 ~~business and situated in this state, in savings and loan~~  
3 ~~associations which are under state supervision, or in federal~~  
4 ~~savings and loan associations located in this state and~~  
5 ~~organized under federal law and federal supervision, provided~~  
6 ~~that any such deposits are secured by collateral as may be~~  
7 ~~prescribed by law; or~~

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

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

25 (2) Except when another procedure is prescribed by  
26 law, ordinance, or court order as to particular funds, the tax  
27 collector shall, as soon as feasible after collection, deposit  
28 in a bank designated as a depository of public funds, as  
29 provided in s. 658.60, all taxes, fees, and other collections  
30 received by him or her and held prior to distribution to the  
31 appropriate taxing authority. Immediately after such funds

1 have cleared and have been properly credited to the tax  
 2 collector's ~~his or her~~ account, the tax collector shall invest  
 3 such funds according to the provisions of s. 218.415 ~~this~~  
 4 ~~section~~. The earnings from such investments shall be  
 5 apportioned at least quarterly on a pro rata basis to the  
 6 appropriate taxing authorities. However, the tax collector  
 7 may deduct therefrom such reasonable amounts as are necessary  
 8 to provide for costs of administration of such investments and  
 9 deposits.

10 (3) The State Board of Administration may establish a  
 11 schedule and guidelines to be followed by tax collectors  
 12 making deposits ~~and investments~~ under the provisions of  
 13 subsection (2).

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

16 Section 10. Section 236.24, Florida Statutes, is  
 17 amended to read:

18 236.24 Sources of district school fund.--

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

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

29 1. ~~The Local Government Surplus Funds Trust Fund;~~

30 2. ~~Negotiable direct obligations of, or obligations~~  
 31 ~~the principal and interest of which are unconditionally~~

1 ~~guaranteed by, the United States Government at the then~~  
2 ~~prevailing market price for such securities;~~

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

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

10 ~~5. Obligations of the Federal National Mortgage~~  
11 ~~Association, including Federal National Mortgage Association~~  
12 ~~participation certificates and mortgage pass-through~~  
13 ~~certificates guaranteed by the Federal National Mortgage~~  
14 ~~Association; or~~

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

26 ~~(b)1. Securities purchased by any such school board~~  
27 ~~under the authority of this law shall be delivered by the~~  
28 ~~seller to the school board or its appointed safekeeper. The~~  
29 ~~safekeeper shall be a qualified bank or trust company~~  
30 ~~chartered to operate as such by the State of Florida, any~~  
31 ~~other state or territory of the United States, or the United~~

1 ~~States Government, that has a branch or principal place of~~  
2 ~~business in this state as defined in s. 658.12. The safekeeper~~  
3 ~~shall issue documentation for each transaction, and a monthly~~  
4 ~~statement detailing all transactions for the period.~~

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

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

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

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

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

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

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

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

11           Section 11. Paragraph (a) of subsection (2) of section  
12 236.49, Florida Statutes, is amended to read:

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

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

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

25           Section 12. Paragraph (b) of subsection (6) of section  
26 237.211, Florida Statutes, is amended to read:

27           237.211 School depositories; payments into and  
28 withdrawals from depositories.--

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

31

1           (b) The school board is authorized to contract with an  
2 insurance company or professional administrator who holds a  
3 valid certificate of authority issued by the Department of  
4 Insurance to provide any or all services that a third-party  
5 administrator is authorized by law to perform. Pursuant to  
6 such contract, the school board may advance or remit money to  
7 the administrator to be deposited in a designated special  
8 checking account for paying claims against the school board  
9 under its self-insurance programs, and remitting premiums to  
10 the providers of insured benefits on behalf of the school  
11 board and the participants in such programs, and otherwise  
12 fulfilling the obligations imposed upon the administrator by  
13 law and the contractual agreements between the school board  
14 and the administrator. The special checking account shall be  
15 maintained in a designated district school depository. The  
16 school board may replenish such account as often as necessary  
17 upon the presentation by the service organization of  
18 documentation for claims or premiums due paid equal to the  
19 amount of the requested reimbursement. Such replenishment  
20 shall be made by a warrant signed by the chair of the board  
21 and countersigned by the superintendent. Such replenishment  
22 may be made by electronic, telephonic, or other medium, and  
23 each transfer shall be confirmed in writing and signed by the  
24 superintendent or his or her designee. The provisions of  
25 strict accountability of all funds and an annual audit by an  
26 independent certified public accountant as provided in s.  
27 230.23(10)(k)(~~l~~) shall apply to this subsection.

28           Section 13. Sections 125.31, 166.261, and 218.345,  
29 Florida Statutes, paragraph (k) of subsection (10) of section  
30 230.23, Florida Statutes, and subsection (5) of section  
31 237.161, Florida Statutes, are repealed.



1           Section 14. This act shall take effect October 1,  
2 2000.

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