

By Senator Geller

31-679-04

1                                   A bill to be entitled  
 2           An act relating to public funds; creating s.  
 3           215.478, F.S.; prescribing investment  
 4           principles for public officers and employees  
 5           investing public moneys and for specified  
 6           officers and employees of firms providing  
 7           investment banking and equity management  
 8           services for governmental agencies with respect  
 9           to investment of public moneys; providing an  
 10          effective date.

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

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 14           Section 1. Section 215.478, Florida Statutes, is  
 15 created to read:

16           215.478 Investment protection principles.--

17           (1) Each person acting individually or as a member of  
 18 a collegial body making investments of public moneys as an  
 19 employee or officer of a state agency or an agency of county,  
 20 municipal, or other local government, and each employee or  
 21 officer of a nongovernmental entity that is retained by such  
 22 an agency to provide investment banking or equity management  
 23 services who makes investment decisions with respect to public  
 24 moneys held in a fiduciary capacity, must comply with the  
 25 following investment principles. The person must:

26           (a) Eliminate conflicts of interest in decisionmaking.

27           (b) Comply with all standards adopted by the agency,  
 28 the moneys of which are being invested with respect to  
 29 disclosure requirements that are more stringent than those  
 30 provided by general law.

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1           (c) Consider the corporate governance practices of the  
2 companies in which public moneys are invested.

3           (2) Each nongovernmental entity that provides  
4 investment banking services for which it is retained by a  
5 state agency or an agency of county, municipal, or other local  
6 government must, as a condition of eligibility for receiving  
7 compensation for such services:

8           (a) Sever any link between compensation for analysts  
9 and investment banking.

10           (b) Prohibit investment banking input into analyst  
11 compensation.

12           (c) Create a review committee to approve all research  
13 recommendations.

14           (d) Upon discontinuation of research coverage of a  
15 company, disclose the coverage termination and the reason for  
16 the termination.

17           (e) Disclose in research reports whether the firm has  
18 received, or is entitled to receive, any compensation from a  
19 covered company within the preceding 12 months.

20           (f) Establish a monitoring process to ensure  
21 compliance with all investment protection principles to which  
22 it is subject.

23           (3) Within each equity management firm doing business  
24 with a state agency or an agency of county, municipal, or  
25 other local government, each active equity manager must:

26           (a) Disclose periodically, as determined by rule of  
27 the agency whose moneys are being managed but in no case less  
28 frequently than annually, any client relationship, including  
29 management of a plan under 26 U.S.C. s. 401(k), in which the  
30 firm could invest public moneys in the securities of the  
31 client.

1           (b) Disclose annually the manner in which their  
2 portfolio managers and research analysts are compensated,  
3 including, but not limited to, any compensation resulting from  
4 the solicitation or acquisition of new clients or the  
5 retention of existing clients.

6           (c) Report no less frequently than quarterly the  
7 amount of commissions related to public moneys paid to  
8 broker-dealers and the percentage of commissions paid to  
9 broker-dealers that have publicly announced that they have  
10 adopted the investment protection principles.

11           (d) Adopt safeguards to ensure that client  
12 relationships of any affiliate company do not influence  
13 investment decisions of the firm; provide the state agency or  
14 agency of county, municipal, or other local government a copy  
15 of the safeguards plan; and certify annually to the state  
16 agency or agency of county, municipal, or other local  
17 government that the plan is being fully enforced.

18           (e) Consider the quality and integrity of the firm's  
19 accounting and financial data, including all public filings  
20 and statements, as well as whether its outside auditors also  
21 provide consulting or other services to the firm.

22           (f) Consider the corporate governance policies and  
23 practices of the firm.

24           Section 2. This act shall take effect upon becoming a  
25 law and shall apply July 1, 2005, with respect to state agency  
26 officers and employees and outside investment banking or  
27 management firms retained by state agencies and October 1,  
28 2005, with respect to officers and employees of, and outside  
29 investment banking or management firms retained by, agencies  
30 of county, municipal, or other local government.

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SENATE SUMMARY

Prescribes principles for governmental and  
nongovernmental officers and employees alike in  
investing, providing banking services for, and providing  
equity management services with respect to public moneys.