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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/3/2008	.	
	.	
	.	

1 The Committee on Governmental Operations (Lawson) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Section 218.401, Florida Statutes, is amended to
 8 read:

9 218.401 Purpose.--It is the intent of this part to promote,
 10 through state assistance, the maximization of net interest
 11 earnings on invested surplus funds of local units of government,
 12 based on the principles of safety and liquidity, with the goal of
 13 ~~thereby~~ reducing the need for imposing additional taxes.

14 Section 2. Section 218.403, Florida Statutes, is amended to
 15 read:

16 218.403 Definitions.--The following words or terms, when
 17 used in this part, shall have the following meanings:



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18 (1) "Board" means the State Board of Administration.

19 (2)~~(1)~~ "Chief financial officer" means the mayor, manager,
20 administrator, clerk, comptroller, treasurer, director of
21 finance, or other local government official, regardless of the
22 title of his or her office, charged with administering the fiscal
23 affairs of a unit of local government.

24 (3)~~(2)~~ "Current expenses" means expenses to meet known cash
25 needs and anticipated cash-flow requirements for the short term.

26 (4) "GASB" means the Governmental Accounting Standards
27 Board.

28 (5) "GFOA" means the Government Finance Officers
29 Association.

30 (6)~~(3)~~ "Governing body" means the body or board in which
31 the legislative power of a unit of local government is vested.

32 (7)~~(4)~~ "Short term" means a maximum of 6 months of
33 operation.

34 (8)~~(5)~~ "Surplus funds" means any funds in any general or
35 special account or fund of a unit of local government, or funds
36 held by an independent trustee on behalf of a unit of local
37 government, which in reasonable contemplation will not be
38 immediately needed for the purposes intended.

39 (9)~~(6)~~ "Trust fund" means the pooled investment fund
40 created by s. 218.405 and known as the Local Government Surplus
41 Funds Trust Fund.

42 (10) "Trustees" means the Trustees of the State Board of
43 Administration.

44 (11)~~(7)~~ "Unit of local government" means any governmental
45 entity within the state not part of state government and shall
46 include, but not be limited to, the following and the officers
47 thereof: any county, municipality, school district, special

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48 district, clerk of the circuit court, sheriff, property
49 appraiser, tax collector, supervisor of elections, authority,
50 board, public corporations, or any other political subdivision of
51 the state.

52 Section 3. Section 218.405, Florida Statutes, is amended to
53 read:

54 218.405 Local Government Surplus Funds Trust Fund;
55 creation.--

56 (1) There is hereby created a Local Government Surplus
57 Funds Trust Fund to be administered directly by the board or
58 through a professional money management firm selected by the
59 State board of Administration and to be composed of local
60 government surplus funds deposited therein by units of local
61 government under the procedures established in this part.

62 (2) The trustees shall annually certify to the Joint
63 Legislative Auditing Committee that the trust fund is in
64 compliance with the requirements of this part and that the
65 trustees have conducted a review of the trust fund and determined
66 that the management of the trust fund is in accord with best-
67 investment practices.

68 (3) The board may adopt rules to administer the provisions
69 of this section.

70 Section 4. Section 218.407, Florida Statutes, is amended to
71 read:

72 218.407 Local government investment authority.--

73 (1) Before any determination by the governing body that it
74 is in the interest of the unit of local government to deposit
75 surplus funds in the trust fund, the board must provide to the
76 governing body enrollment materials, including a trust fund
77 profile containing impartial educational information describing

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78 the administration and investment policy of the trust fund
79 including, but not limited to:

80 (a) Rights and conditions of participation, including
81 potential restrictions on withdrawals.

82 (b) Historical performance, investment holdings, credit
83 quality, and average maturity of the trust fund investments.

84 (c) Applicable administrative rules.

85 (d) Rate-determination processes for any deposit or
86 withdrawal.

87 (e) Any fees, charges, penalties, and deductions that apply
88 to the account.

89 (f) The most recently published financial statements or
90 independent audit, if available, prepared according to generally
91 accepted accounting principles.

92 (g) The disclosure statement for signature by the
93 appropriate local government official.

94 (2) Upon review of the enrollment materials and
95 determination by the governing body that it is in the interest of
96 the unit of local government to deposit surplus funds in the
97 trust fund, a resolution by the governing body and the signed
98 acceptance of the disclosure statement by the local government
99 official designated in the resolution, who may be the chief
100 financial or administrative officer of the local government,
101 shall be filed with the State Board of Administration authorizing
102 investment of its surplus funds in the trust fund established by
103 this part. The resolution shall name:

104 (a) The local government official, who may be the chief
105 financial or administrative officer of the local government who
106 is responsible for deposit and withdrawal of such funds.~~or~~

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107 (b) An independent trustee holding funds on behalf of the
108 unit of local government who is^r

109
110 responsible for deposit and withdrawal of such funds.

111 (c) The source and use of the funds to be invested in the
112 trust fund and the schedule of distribution, if known.

113 (3)(2) The ~~State board of Administration~~ shall, upon the
114 filing of the resolution, invest the moneys in the trust fund in
115 the same manner and subject to the same restrictions as are set
116 forth in s. 215.47. ~~Except when authorized by the board,~~ All
117 units of local government which qualify to be participants in the
118 Local Government Surplus Funds Trust Fund shall ~~after January 1,~~
119 ~~1982, will normally~~ have surplus funds deposited into a pooled
120 investment account.

121 (4)(3) The provisions of this part shall not impair the
122 power of a unit of local government to hold funds in deposit
123 accounts with banking or savings institutions or to invest funds
124 as otherwise authorized by law.

125 Section 5. Section 218.409, Florida Statutes, is amended to
126 read:

127 218.409 Administration of the trust fund.--

128 (1) Upon receipt of the resolution from the local governing
129 body, the State Board of Administration shall accept all wire
130 transfers of funds into the trust fund. The State Board of
131 Administration shall also wire-transfer invested local government
132 funds to the local government upon request of the local
133 government official named in the resolution.

134 (2) The State Board of Administration shall administer the
135 investment trust funds on behalf of the participants and shall
136 have the power to invest such funds. A fee may be charged on any

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137 transaction that is not in accord with the close of business as
138 set by the board.

139 (3) The State Board of Administration may purchase such
140 surety or other bonds or borrow funds from others that may be
141 secured by the assets held in such trust fund, and give and renew
142 notes for such borrowed funds as may be necessary for its
143 ~~officials~~ in order to protect the trust fund. A reserve account
144 shall fund may be established and maintained through deductions
145 from pooled investment earnings in order to protect the trust
146 fund from credit-related losses in investments or declare one-
147 time dividends to be allocated to participants on an equitable
148 basis. Regular monthly allocations to the reserve fund may not
149 exceed, on an annualized basis, one-tenth of 1 percent of the
150 trust fund's investments until the reserve fund equals 1 percent
151 of investments. However, other allocations to the reserve fund
152 may be declared by the trustees of the State Board of
153 Administration. Any use of the reserve fund must be authorized by
154 the trustees to fulfill this purpose.

155 (4) ~~All investments may be purchased jointly for the~~
156 ~~participants in the trust fund.~~ The board shall may also purchase
157 investments for a pooled investment account in which all
158 participants may share pro rata, as determined by rule of the
159 board, in the capital gain, income, or losses, subject to any
160 penalties for early withdrawal. The board shall determine the
161 rate of return for the pooled investment account. A system may be
162 developed by the board to keep current account balance
163 information and to apportion pooled investment earnings back to
164 individual accounts.

165 (5) The State Board of Administration shall keep a separate
166 account, designated by name and number of each participating

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167 local government. A maximum number of accounts allowed for each
168 participant may be established by the board. Individual
169 transactions and totals of all investments, or the share
170 belonging to each participant, shall be recorded in the accounts.

171 (6) The State Board of Administration shall report annually
172 ~~semiannually or upon request~~ to every participant having a
173 beneficial interest in the trust fund. The report shall be
174 prepared in accordance with generally accepted accounting
175 principals ~~show the changes in investments made during the~~
176 ~~preceding period.~~ Such The report shall be subject to annual
177 independent external financial audit ~~delineate, in a manner which~~
178 ~~is in accordance with generally accepted governmental accounting~~
179 ~~procedures, those funds on deposit, the manner in which the funds~~
180 ~~are invested, and the interest earnings thereon.~~ The State Board
181 of Administration shall furnish upon request the details of an
182 investment transaction to any participant. The board shall
183 provide to each participant a monthly statement accounting for
184 the contributions made on behalf of such participant, the
185 interest and investment earnings thereon, the value of the
186 account, and any fees, penalties, or other deductions applying
187 thereto. The board shall make available historical performance,
188 investment holdings, amortized cost and market value of the trust
189 fund, credit quality, and average maturity of the trust fund
190 investments. ~~Additional reporting may be made to pool~~
191 ~~participants.~~

192 (7) Costs incurred in carrying out the provisions of this
193 part shall be deducted from the interest earnings accruing to the
194 trust fund. Such deductions shall be prorated among the
195 participant local governments in the percentage that each
196 participant's deposits bear to the total trust fund.

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197 (8) (a) The principal, and any part thereof, of each and
198 every account constituting the trust fund shall be subject to
199 payment at any time from the moneys in the fund or as otherwise
200 provided in this section ~~by agreement between the State Board of~~
201 ~~Administration and the investing unit.~~

202 (b) An order or warrant may not be issued upon any account
203 for a larger amount than the share of the particular account to
204 which it applies; and if such order or warrant is issued, the
205 responsible official shall be personally liable under his or her
206 bond for the entire overdraft resulting from the payment if made.

207 (9) The Investment Advisory Council, as created pursuant to
208 s. 215.444, shall assist the board in investing moneys held in
209 the trust fund. The council shall regularly review the investment
210 status and performance of the trust fund, including credit
211 quality, liquidity and cash flow, risk management, investment
212 policy guidelines, compliance exceptions, and any other policies,
213 procedures, or activities that the council deems relevant. Before
214 presenting the investment policy guidelines or any recommended
215 changes thereto to the Trustees of the State Board of
216 Administration for approval, the executive director of the board
217 shall present such guidelines or changes to the council for
218 review. The council shall present the results of its review to
219 the trustees before the board's final approval of the guidelines
220 or any changes thereto.

221 (10) There is created a six-member Pool Participant
222 Advisory Council for the purposes of regularly reviewing the
223 administration of the trust fund and making recommendations
224 regarding such administration to the trustees. The members of the
225 council shall be appointed by the board and subject to
226 confirmation by the Senate. Members must possess special

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227 knowledge, experience, and familiarity obtained through active,
228 long-standing, and material participation in the dealings of the
229 trust fund. Each member shall serve a 4-year term. Any vacancy
230 shall be filled for the remainder of the unexpired term. The
231 council shall annually elect a chair and vice chair from within
232 its membership. A member may not serve consecutive terms as chair
233 or vice chair.

234 (11) If at the close of any 2 consecutive business days the
235 ratio of the trust fund's market value to amortized cost is below
236 .995 or above 1.005, or during a major market disruption causing
237 a suspension of trading, or if liquidity is impaired, the
238 executive director of the board shall promptly consider what
239 action, if any, shall be initiated, and advise the trustees of
240 the State Board of Administration accordingly. If the trustees
241 believe the extent of any deviation from the trust fund's
242 amortized cost price per share may result in material dilution or
243 other unfair results to participants, the trustees shall take
244 such action as they deem appropriate to eliminate or reduce, to
245 the extent reasonably practicable, such dilution or unfair
246 results. In order to ensure the proper exercise of fiduciary
247 responsibility, the trustees may:

248 (a) Limit contributions to the trust fund or withdrawals
249 from the trust fund;

250 (b) Impose early redemption fees; and

251 (c) Create a liquidating account under subsection (12).

252 (12) At any time and at their discretion, the trustees may
253 segregate and place any assets of the trust fund, including any
254 reserve fund proceeds established in the trust fund, in a
255 liquidating account to be held and disposed of in accordance with
256 this subsection.



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257 (a) Each liquidating account established by the segregation
258 of an asset of the trust fund pursuant to this paragraph shall be
259 maintained and administered solely for the benefit of, and the
260 proceeds thereof shall be distributed ratably to, all
261 participants in the trust fund at the time such assets are set
262 apart in such liquidating account, except as set forth below with
263 respect to reserves. The trustees shall have, with respect to any
264 such assets held in any such liquidating account or any
265 investment received in exchange for such assets, the same power
266 and authority as set forth in this section. The trustees shall
267 liquidate the investments held in any liquidating account if such
268 liquidation is in the best interests of the participants.

269 (b) Additional money or future interest earnings from the
270 trust fund may not be invested in a liquidating account.

271 (c) Distributions of cash received from income or
272 liquidation of any asset held in a liquidating account shall be
273 made at such intervals as the trustees deem appropriate, but not
274 less frequently than monthly. All such distributions as of any
275 one time shall be made ratably and on the same basis among the
276 participants' beneficial interest in such liquidating account.

277 (d) Each liquidating account shall be audited in the manner
278 provided in subsection (6).

279 (e) All reasonable expenses incurred in the administration
280 of a liquidating account which would be chargeable to the
281 respective trust fund from which the asset held in such
282 liquidating account was segregated if incurred in the
283 administration of such trust fund may be charged to such
284 liquidating account.

285 (f) For the purpose of deposits to and withdrawals from the
286 trust fund, as well as determining the value of the units of the



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287 trust fund and the income, gains, or losses of the trust fund
 288 allocated among participants pursuant to this section, the value,
 289 income, gains, or losses of any assets held in any liquidating
 290 account shall be excluded, and separate financial statements
 291 shall be prepared to reflect such for purposes of state and local
 292 government financial reporting. Any reserves held in a
 293 liquidating account may be transferred by the trustees at their
 294 sole discretion back to the trust fund from which the assets were
 295 originally segregated, and participants must be refunded their
 296 original principal amount in the liquidating account as such
 297 amount existed at the time of segregation. Regular reports
 298 regarding the status of a liquidating account shall be provided
 299 to the trustees, participants, Investment Advisory Council, and
 300 Pool Participant Advisory Council.

301 Section 6. This act shall take effect upon becoming a law.

303 ===== T I T L E A M E N D M E N T =====

304 And the title is amended as follows:

305 Delete everything before the enacting clause
306 and insert:

307 A bill to be entitled
 308 An act relating to local government finance; amending s.
 309 218.401, F.S.; clarifying purpose and intent; amending s.
 310 218.403, F.S.; defining the terms "board," "GASB," "GFOA,"
 311 and "trustees" for the purposes of the Investment of Local
 312 Government Surplus Funds Act; amending s. 218.405, F.S.;

313 providing for the administration of the Local Government
 314 Surplus Funds Trust Fund; providing duties of trustees of
 315 the State Board of Administration; amending s. 218.407,
 316 F.S.; requiring that the board provide a unit of local



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317 government with certain information before such unit makes
318 a determination that it is in the best interest of the
319 local government unit to deposit surplus funds in the
320 trust fund; requiring the filing of a resolution upon such
321 determination; requiring that the resolution contain
322 certain information; requiring that the board invest the
323 moneys in the trust fund in a certain manner; amending s.
324 218.409, F.S.; providing duties of the board with regard
325 to the administration of the trust fund; providing for the
326 establishment of a reserve account; requiring monthly
327 allocations to the reserve account; limiting the amount of
328 monthly allocations; requiring that the board report
329 annually to every participant having a beneficial interest
330 in the trust fund; providing for the preparation of the
331 report; providing that such report is subject to
332 independent financial audit; requiring that the board
333 provide a monthly statement to beneficiaries; requiring
334 that such statement contain certain information; requiring
335 that the Investment Advisory Council assist the board in
336 investing moneys held in the trust fund; providing duties
337 of the council; creating the Pool Participant Advisory
338 Council; providing purposes for the council; providing for
339 membership and composition of the council; requiring that
340 the executive director of the State Board of
341 Administration consider appropriate action and advise the
342 trustees accordingly under certain circumstances;
343 providing duties of the trustees under such circumstances;
344 authorizing the trustees to perform certain actions for
345 the purpose of ensuring the proper exercise of fiduciary
346 responsibility; authorizing the trustees to place assets



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347 of the trust fund into a liquidating account; providing
348 for the maintenance and administration of such liquidating
349 accounts; providing powers and duties of trustees with
350 regard to assets in a liquidating account; providing for
351 distribution of cash received from income or liquidation
352 of assets held in a liquidating account; requiring the
353 audit of such accounts; authorizing certain reasonable
354 expenses to be charged to a liquidating account; excluding
355 certain information related to assets held in liquidating
356 accounts from certain statements; requiring that separate
357 statements be issued for such information; providing for
358 the transfer of reserves held in a liquidating account;
359 requiring that the status of such accounts be reported
360 regularly to the trustees, participants in the fund, the
361 Investment Advisory Council, and the Pool Participant
362 Advisory Council; providing an effective date.