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1 A bill to be entitled
2 An act relating to local government finance; amending s.
3 215.441, F.S.; providing that the appointment of the
4 executive director of the State Board of Administration be
5 confirmed by the Senate and approved by a majority vote of
6 the trustees of the board; amending s. 215.442, F.S.;
7 requiring the executive director of the State Board of
8 Administration to present the trustees with additional
9 information; providing that the executive director is a
10 state officer and subject to financial disclosure
11 requirements; amending s. 218.401, F.S.; clarifying
12 purpose and intent; amending s. 218.403, F.S.; defining
13 the terms "board" and "trustees" for purposes of the
14 Investment of Local Government Surplus Funds Act; amending
15 s. 218.405, F.S.; providing for the administration of the
16 Local Government Surplus Funds Trust Fund; providing
17 duties of Trustees of the State Board of Administration;
18 amending s. 218.407, F.S.; requiring that the board
19 provide a unit of local government with certain
20 information before such unit makes a determination that it
21 is in the best interest of the local government unit to
22 deposit surplus funds in the trust fund; requiring the
23 filing of a resolution upon such determination; requiring
24 that the resolution contain certain information; requiring
25 that the board invest the moneys in the trust fund in a
26 certain manner; amending s. 218.409, F.S.; providing
27 duties of the board with regard to the administration of
28 the trust fund; providing for the establishment of a
29 reserve account; requiring monthly allocations to the

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30 reserve account; limiting the amount of monthly
31 allocations; requiring that the board report annually to
32 every participant having a beneficial interest in the
33 trust fund; providing for the preparation of the report;
34 providing that such report is subject to independent
35 financial audit; requiring that the board provide a
36 monthly statement to beneficiaries; requiring that such
37 statement contain certain information; requiring that the
38 Investment Advisory Council assist the board in investing
39 moneys held in the trust fund; providing duties of the
40 council; creating the Pool Participant Advisory Council;
41 providing purposes for the council; providing for
42 membership and composition of the council; requiring that
43 the executive director of the State Board of
44 Administration consider appropriate action and advise the
45 trustees accordingly under certain circumstances;
46 providing duties of the trustees under such circumstances;
47 authorizing the trustees to perform certain actions for
48 the purpose of ensuring the proper exercise of fiduciary
49 responsibility; authorizing the trustees to place assets
50 of the trust fund into a liquidating account; providing
51 for the maintenance and administration of such liquidating
52 accounts; providing powers and duties of trustees with
53 regard to assets in a liquidating account; providing for
54 distribution of cash received from income or liquidation
55 of assets held in a liquidating account; requiring the
56 audit of such accounts; authorizing certain reasonable
57 expenses to be charged to a liquidating account; excluding
58 certain information related to assets held in liquidating

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59 accounts from certain statements; requiring that separate
60 statements be issued for such information; providing for
61 the transfer of reserves held in a liquidating account;
62 requiring that the status of such accounts be reported
63 regularly to the trustees, participants in the fund, the
64 Investment Advisory Council, and the Pool Participant
65 Advisory Council; providing an effective date.
66

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

68 Section 1. Section 215.441, Florida Statutes, is amended to
69 read:

70 215.441 Board of Administration; appointment of executive
71 director.--The appointment of the executive director of the State
72 Board of Administration shall be subject to confirmation by the
73 Senate and ~~the~~ approval by a majority vote of the Board of
74 Trustees of the State Board of Administration, and the Governor
75 must vote on the prevailing side. Such appointment must be
76 reaffirmed in the same manner by the board of trustees on an
77 annual basis.

78 Section 2. Subsection (1) of section 215.442, Florida
79 Statutes, is amended, and subsection (4) is added to that
80 section, to read:

81 215.442 Executive director; reporting requirements; public
82 meeting.--

83 (1) Beginning October 2007 and quarterly thereafter, the
84 executive director shall present to the Board of Trustees of the
85 State Board of Administration a quarterly report to include the
86 following:

87 (a) The name of each equity in which the State Board of

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88 Administration has invested for the quarter.

89 (b) The industry category of each equity.

90 (c) Mortgage securities or debt that represent
91 participation in or are collateralized by mortgage loans secured
92 by real property or debt issued, including the letter and
93 numerical ratings provided by nationally recognized statistical
94 rating organizations for each security.

95 (d) A reporting of which securities have moved inside and
96 outside of investment grade.

97 (4) The executive director is a state officer and is
98 subject to s. 112.3145.

99 Section 3. Section 218.401, Florida Statutes, is amended to
100 read:

101 218.401 Purpose.--It is the intent of this part to promote,
102 through state assistance, the maximization of net interest
103 earnings on invested surplus funds of local units of government,
104 based on the principles of safety and liquidity, with the goal of
105 ~~thereby~~ reducing the need for imposing additional taxes.

106 Section 4. Section 218.403, Florida Statutes, is amended to
107 read:

108 218.403 Definitions.--The following words or terms, when
109 used in this part, shall have the following meanings:

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

111 (2)~~(1)~~ "Chief financial officer" means the mayor, manager,
112 administrator, clerk, comptroller, treasurer, director of
113 finance, or other local government official, regardless of the
114 title of his or her office, charged with administering the fiscal
115 affairs of a unit of local government.

116 (3)~~(2)~~ "Current expenses" means expenses to meet known cash

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117 needs and anticipated cash-flow requirements for the short term.

118 (4)~~(3)~~ "Governing body" means the body or board in which
119 the legislative power of a unit of local government is vested.

120 (5)~~(4)~~ "Short term" means a maximum of 6 months of
121 operation.

122 (6)~~(5)~~ "Surplus funds" means any funds in any general or
123 special account or fund of a unit of local government, or funds
124 held by an independent trustee on behalf of a unit of local
125 government, which in reasonable contemplation will not be
126 immediately needed for the purposes intended.

127 (7)~~(6)~~ "Trust fund" means the pooled investment fund
128 created by s. 218.405 and known as the Local Government Surplus
129 Funds Trust Fund. The term does not include a liquidating account
130 created under s. 218.409.

131 (8) "Trustees" means the Trustees of the State Board of
132 Administration.

133 (9)~~(7)~~ "Unit of local government" means any governmental
134 entity within the state not part of state government and shall
135 include, but not be limited to, the following and the officers
136 thereof: any county, municipality, school district, special
137 district, clerk of the circuit court, sheriff, property
138 appraiser, tax collector, supervisor of elections, authority,
139 board, public corporations, or any other political subdivision of
140 the state.

141 Section 5. Section 218.405, Florida Statutes, is amended to
142 read:

143 218.405 Local Government Surplus Funds Trust Fund;
144 creation.--

145 (1) There is ~~hereby~~ created a Local Government Surplus

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146 Funds Trust Fund to be administered directly by the board or
147 through a professional money management firm selected by the
148 ~~State board, of Administration and to be~~ composed of local
149 government surplus funds deposited therein by units of local
150 government under the procedures established in this part.

151 (2) The trustees shall annually certify to the Joint
152 Legislative Auditing Committee that the trust fund is in
153 compliance with the requirements of this part and that the
154 trustees have conducted a review of the trust fund and determined
155 that the management of the trust fund is in accord with best-
156 investment practices.

157 (3) The board may adopt rules to administer ~~the provisions~~
158 ~~of~~ this section.

159 Section 6. Section 218.407, Florida Statutes, is amended to
160 read:

161 218.407 Local government investment authority.--

162 (1) Before any determination by the governing body that it
163 is in the interest of the unit of local government to deposit
164 surplus funds in the trust fund, the board must provide to the
165 governing body enrollment materials, including a trust fund
166 profile containing impartial educational information describing
167 the administration and investment policy of the trust fund
168 including, but not limited to:

169 (a) Rights and conditions of participation, including
170 potential restrictions on withdrawals.

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

173 (c) Applicable administrative rules.

174 (d) Rate-determination processes for any deposit or

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175 withdrawal.

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

178 (f) The most recently published financial statements or
179 independent audit, if available, prepared according to generally
180 accepted accounting principles.

181 (g) The disclosure statement for signature by the
182 appropriate local government official.

183 (2) Upon review of the enrollment materials and
184 determination by the governing body that it is in the interest of
185 the unit of local government to deposit surplus funds in the
186 trust fund, a resolution by the governing body and the signed
187 acceptance of the disclosure statement by the local government
188 official designated in the resolution, who may be the chief
189 financial or administrative officer of the local government,
190 shall be filed with the State Board of Administration authorizing
191 investment of its surplus funds in the trust fund established by
192 this part. The resolution shall name:

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

196 (b) An independent trustee holding funds on behalf of the
197 unit of local government who is

198
199 responsible for deposit and withdrawal of such funds.

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

202 (3)~~(2)~~ ~~The State board of Administration shall, upon the~~
203 filing of the resolution, invest the moneys in the trust fund in

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204 the same manner and subject to the same restrictions as are set
205 forth in s. 215.47. ~~Except when authorized by the board,~~ All
206 units of local government which qualify to be participants in the
207 Local Government Surplus Funds Trust Fund shall ~~after January 1,~~
208 ~~1982, will normally~~ have surplus funds deposited into a pooled
209 investment account.

210 (4)~~(3)~~ The provisions of this part shall not impair the
211 power of a unit of local government to hold funds in deposit
212 accounts with banking or savings institutions or to invest funds
213 as otherwise authorized by law.

214 Section 7. Section 218.409, Florida Statutes, is amended to
215 read:

216 218.409 Administration of the trust fund.--

217 (1) Upon receipt of the resolution from the local governing
218 body, the State Board of Administration shall accept all wire
219 transfers of funds into the trust fund. The State Board of
220 Administration shall also wire-transfer invested local government
221 funds to the local government upon request of the local
222 government official named in the resolution.

223 (2) The State Board of Administration shall administer the
224 investment trust funds on behalf of the participants and shall
225 have the power to invest such funds. A fee may be charged on any
226 transaction that is not in accord with the close of business as
227 set by the board.

228 (3) The State Board of Administration may purchase such
229 surety or other bonds or borrow funds from others that may be
230 secured by the assets held in such trust fund, and give and renew
231 notes for such borrowed funds as may be necessary ~~for its~~
232 ~~officials~~ in order to protect the trust fund. A reserve account

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233 shall fund may be established and maintained through deductions
234 from pooled investment earnings in order to protect the trust
235 fund from credit-related losses in investments or declare one-
236 time dividends to be allocated to participants on an equitable
237 basis. Regular monthly allocations to the reserve fund may not
238 exceed, on an annualized basis, one-tenth of 1 percent of the
239 trust fund's investments until the reserve fund equals 1 percent
240 of investments. However, other allocations to the reserve fund
241 may be declared by the trustees of the State Board of
242 Administration. Any use of the reserve fund must be authorized by
243 the trustees to fulfill this purpose.

244 (4) ~~All investments may be purchased jointly for the~~
245 ~~participants in the trust fund.~~ The board shall may also purchase
246 investments for a pooled investment account in which all
247 participants may share pro rata, as determined by rule of the
248 board, in the capital gain, income, or losses, subject to any
249 penalties for early withdrawal. The board shall determine the
250 rate of return for the pooled investment account. A system may be
251 developed by the board to keep current account balance
252 information and to apportion pooled investment earnings back to
253 individual accounts.

254 (5) The State Board of Administration shall keep a separate
255 account, designated by name and number of each participating
256 local government. A maximum number of accounts allowed for each
257 participant may be established by the board. Individual
258 transactions and totals of all investments, or the share
259 belonging to each participant, shall be recorded in the accounts.

260 (6) The State Board of Administration shall report annually
261 for the period ending June 30 ~~semiannually or upon request to~~

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262 every participant having a beneficial interest in the trust fund.
263 The report shall be prepared in accordance with generally
264 accepted accounting principals ~~show the changes in investments~~
265 ~~made during the preceding period.~~ Such The report shall be
266 subject to annual independent external financial audit ~~delineate,~~
267 ~~in a manner which is in accordance with generally accepted~~
268 ~~governmental accounting procedures, those funds on deposit, the~~
269 ~~manner in which the funds are invested, and the interest earnings~~
270 ~~thereon.~~ The State Board of Administration shall furnish upon
271 request the details of an investment transaction to any
272 participant. The board shall provide to each participant a
273 monthly statement accounting for the contributions made on behalf
274 of such participant, the interest and investment earnings
275 thereon, the value of the account, and any fees, penalties, or
276 other deductions applying thereto. The board shall make available
277 ongoing multimedia educational materials and communications
278 detailing historical performance, investment holdings, amortized
279 cost and market value of the trust fund, credit quality, and
280 average maturity of the trust fund investments. ~~Additional~~
281 ~~reporting may be made to pool participants.~~

282 (7) Costs incurred in carrying out the provisions of this
283 part shall be deducted from the interest earnings accruing to the
284 trust fund. Such deductions shall be prorated among the
285 participant local governments in the percentage that each
286 participant's deposits bear to the total trust fund.

287 (8) (a) The principal, and any part thereof, of each and
288 every account constituting the trust fund shall be subject to
289 payment at any time from the moneys in the fund or as otherwise
290 provided in this section ~~by agreement between the State Board of~~

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291 ~~Administration and the investing unit.~~

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

297 (9) The Investment Advisory Council, as created pursuant to
298 s. 215.444, shall assist the board in investing moneys held in
299 the trust fund. The council shall regularly review the investment
300 status and performance of the trust fund, including credit
301 quality, liquidity and cash flow, risk management, investment
302 policy guidelines, compliance exceptions, and any other policies,
303 procedures, or activities that the council deems relevant. Before
304 presenting the investment policy guidelines or any recommended
305 changes thereto to the Trustees of the State Board of
306 Administration for approval, the executive director of the board
307 shall present such guidelines or changes to the council for
308 review. The council shall present the results of its review to
309 the trustees before the board's final approval of the guidelines
310 or any changes thereto.

311 (10) There is created a six-member Pool Participant
312 Advisory Council for the purposes of regularly reviewing the
313 administration of the trust fund and making recommendations
314 regarding such administration to the trustees. The members of the
315 council shall be appointed by the board and subject to
316 confirmation by the Senate. Members must possess special
317 knowledge, experience, and familiarity obtained through active,
318 long-standing, and material participation in the dealings of the
319 trust fund. Each member shall serve a 4-year term. Any vacancy

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320 shall be filled for the remainder of the unexpired term. The
321 council shall annually elect a chair and vice chair from within
322 its membership. A member may not serve consecutive terms as chair
323 or vice chair.

324 (11) If at the close of any 2 consecutive business days the
325 ratio of the trust fund's market value to amortized cost is below
326 .995 or above 1.005, or during a major market disruption causing
327 a suspension of trading, or if liquidity is impaired, the
328 executive director of the board shall promptly consider what
329 action, if any, shall be initiated, and advise the trustees of
330 the State Board of Administration accordingly. If the trustees
331 believe the extent of any deviation from the trust fund's
332 amortized cost price per share may result in material dilution or
333 other unfair results to participants, the trustees shall take
334 such action as they deem appropriate to eliminate or reduce, to
335 the extent reasonably practicable, such dilution or unfair
336 results. In order to ensure the proper exercise of fiduciary
337 responsibility, the trustees may:

338 (a) Limit contributions to the trust fund or withdrawals
339 from the trust fund;

340 (b) Impose early redemption fees; and

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

342 (12) At any time and at their discretion, the trustees may
343 segregate and place any assets of the trust fund, including any
344 reserve fund proceeds established in the trust fund, in a
345 liquidating account to be held and disposed of in accordance with
346 this subsection.

347 (a) Each liquidating account established by the segregation
348 of an asset of the trust fund pursuant to this paragraph shall be

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349 maintained and administered solely for the benefit of, and the
350 proceeds thereof shall be distributed ratably to, all
351 participants in the trust fund at the time such assets are set
352 apart in such liquidating account, except as set forth below with
353 respect to reserves. The trustees shall have, with respect to any
354 such assets held in any such liquidating account or any
355 investment received in exchange for such assets, the same power
356 and authority as set forth in this section. The trustees shall
357 liquidate the investments held in any liquidating account if such
358 liquidation is in the best interests of the participants.

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

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

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

369 (e) All reasonable expenses incurred in the administration
370 of a liquidating account which would be chargeable to the
371 respective trust fund from which the asset held in such
372 liquidating account was segregated if incurred in the
373 administration of such trust fund may be charged to such
374 liquidating account.

375 (f) For the purpose of deposits to and withdrawals from the
376 trust fund, as well as determining the value of the units of the
377 trust fund and the income, gains, or losses of the trust fund

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378 allocated among participants pursuant to this section, the value,
379 income, gains, or losses of any assets held in any liquidating
380 account shall be excluded, and separate financial statements
381 shall be prepared to reflect such for purposes of state and local
382 government financial reporting. Any reserves held in a
383 liquidating account may be transferred by the trustees at their
384 sole discretion back to the trust fund from which the assets were
385 originally segregated, to the extent that participants are
386 returned their original principal amount in the liquidating
387 account as such amount existed at the time of segregation.
388 Regular reports regarding the status of a liquidating account
389 shall be provided to the trustees, participants, Investment
390 Advisory Council, and Pool Participant Advisory Council.

391 Section 8. This act shall take effect upon becoming a law.