

1                                   A bill to be entitled  
2       An act relating to the Fund B Surplus Funds Trust Fund;  
3       creating s. 218.418, F.S.; providing definitions; creating  
4       s. 218.421, F.S.; providing for the purpose of the Fund B  
5       Surplus Funds Trust Fund; providing rulemaking authority;  
6       providing for administration of the trust fund; providing  
7       for annual certification by the Trustees of the State  
8       Board of Administration to the Joint Legislative Auditing  
9       Committee that the trust fund has been reviewed and is in  
10      compliance with the requirements of this section;  
11      providing restrictions on the trust fund; providing  
12      criteria for payment of accrued funds; restricting  
13      participant transactions in the trust fund; providing for  
14      investment policy criteria; providing procedures for  
15      internal controls; providing duty to disclose material  
16      impacts on the trust fund; providing for investment policy  
17      implementation; providing criteria for payment of costs  
18      and use of interest; providing for distribution of the  
19      remaining reserve upon self-liquidation; providing  
20      reporting requirements; requiring monthly reports to  
21      certain persons and groups; providing criteria of the  
22      report; providing for additional reporting; requiring  
23      trustee review; creating s. 218.422, F.S.; requiring the  
24      Auditor General to review the trust fund prior to the 2013  
25      Regular Session and provide a summary report to certain  
26      persons and entities; providing for expiration of ss.  
27      218.418-218.422, F.S., upon termination or self-

28 liquidation of the trust fund; providing a contingent  
 29 effective date.

30  
 31 Be It Enacted by the Legislature of the State of Florida:

32  
 33 Section 1. Section 218.418, Florida Statutes, is created  
 34 to read:

35 218.418 Definitions.--As used in ss. 218.421-218.422, the  
 36 term:

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

38 (2) "Surplus funds" means any funds in any general or  
 39 special account or fund of a unit of local government, or funds  
 40 held by an independent trustee on behalf of a unit of local  
 41 government, which in reasonable contemplation will not be  
 42 immediately needed for the purposes intended.

43 (3) "Trust fund" means the pooled investment fund known as  
 44 the Fund B Surplus Funds Trust Fund.

45 (4) "Trustees" means the Trustees of the State Board of  
 46 Administration.

47 (5) "Unit of local government" means any governmental  
 48 entity within the state not part of state government and  
 49 includes, but is not limited to, the following and the officers  
 50 thereof: any county, municipality, school district, special  
 51 district, clerk of the circuit court, sheriff, property  
 52 appraiser, tax collector, supervisor of elections, authority,  
 53 board, public corporation, or other political subdivision of the  
 54 state.

55 Section 2. Section 218.421, Florida Statutes, is created  
 56 to read:

57 218.421 Fund B Surplus Funds Trust Fund; purpose;  
 58 rulemaking; administration; reporting.--

59 (1) (a) The purpose of the Fund B Surplus Funds Trust Fund  
 60 is to maximize the payout of principal on invested surplus funds  
 61 of units of local government formerly in Fund B of the Local  
 62 Government Surplus Funds Trust Fund through a prudent work out  
 63 of the trust fund with the ultimate goal of self-liquidating the  
 64 trust fund through maturity and payout of the investments.

65 (b) The State Board of Administration may adopt rules  
 66 pursuant to ss. 120.536(1) and 120.54 to administer this  
 67 section.

68 (2) (a) The board or a professional money management firm  
 69 shall administer the trust fund on behalf of the participants  
 70 based on a written investment policy, approved by the trustees,  
 71 and shall have the power to work out, restructure, or invest  
 72 such funds. The trustees shall annually certify to the Joint  
 73 Legislative Auditing Committee that the trustees have conducted  
 74 a review of the trust fund and that the trust fund is in  
 75 compliance with the requirements of this section. Any new  
 76 investments must be made in money market or equivalent funds.  
 77 The board or a professional money management firm shall keep a  
 78 separate account, designated by name and number of each  
 79 participating local government. Individual transactions and  
 80 totals of all investments, or the share belonging to each  
 81 participant, shall be recorded in the accounts. Any moneys  
 82 accrued in the trust fund shall be subject to payment from the

83 trust fund on a monthly basis to the trust fund participants  
84 according to their proportional interest in the trust fund so  
85 long as at least \$100,000 is in the trust fund at the end of  
86 that month. After all securities have matured, been sold, or  
87 worked out, a final distribution shall be made to the  
88 participants in the trust fund. Participants may not conduct  
89 transactions in the trust fund.

90 (b) The board or a professional money management firm and  
91 all employees of the board or firm have an affirmative duty to  
92 immediately disclose any material impact to the trust fund to  
93 the participants. To ensure such disclosure, a system of  
94 internal controls shall be established by the board, which shall  
95 be documented in writing as part of the investment policy. The  
96 controls shall be designed to prevent the loss of public funds  
97 arising from fraud, employee error, and misrepresentation by  
98 third parties, unanticipated changes in financial markets, or  
99 imprudent actions by employees and officers of the board or a  
100 professional money management firm. The controls shall also  
101 include formal escalation reporting guidelines for all  
102 employees. The guidelines shall establish procedures to address  
103 material impacts on the trust fund that require reporting and  
104 action.

105 (c) The investment policy shall be reviewed and approved  
106 by the trustees or when market changes dictate, and in each  
107 event, the investment policy shall be reviewed by the Investment  
108 Advisory Council and by the Participant Local Government  
109 Advisory Council.

110       (d) Administrative costs incurred in carrying out the  
111 provisions of this section, which shall be prorated among the  
112 participants in the percentage that each participant's deposits  
113 bear to the total trust fund, may be deducted from any interest  
114 earned in the trust fund. The board or a professional money  
115 management firm may not transfer the interest or use the  
116 interest for any other purpose, including, but not limited to,  
117 making up investment losses.

118       (e) After the trust fund self-liquidates, any remaining  
119 reserve shall be distributed on a pro rata basis in the  
120 percentage that each participant's deposits bear to the total  
121 trust fund.

122       (3) (a) The board or a professional money management firm  
123 shall provide a report at a minimum, monthly, or upon the  
124 occurrence of a material event, to every participant having a  
125 beneficial interest in the trust fund, the board's executive  
126 director, the trustees, the Joint Legislative Auditing  
127 Committee, the Investment Advisory Council, and the Participant  
128 Local Government Advisory Council. The report shall include:

129       1. Reports of any material impacts on the trust fund, and  
130 any actions or escalations taken by staff to address such  
131 impacts. The trustees shall provide quarterly a report to the  
132 Joint legislative Auditing Committee that the trustees have  
133 reviewed and approved the monthly reports and actions taken, if  
134 any, to address any impacts.

135       2. A management summary that provides an analysis of the  
136 status of the current investment portfolio and the individual  
137 transactions executed over the last month. This management

138 summary shall be prepared in a manner that will allow anyone to  
 139 ascertain whether investment activities during the reporting  
 140 period have conformed to investment policies. Such reporting  
 141 shall be in conformance with best market practices.

142 3. The board or a professional money management firm shall  
 143 furnish upon request the details of an investment transaction to  
 144 any participant, the trustees, the Investment Advisory Council,  
 145 and the Participant Local Government Advisory Council.

146 (b) Additional reporting may be made to participants in  
 147 the trust fund through regular and frequent ongoing multi-media  
 148 educational materials and communications, including, but not  
 149 limited to, historical performance, investment holdings,  
 150 amortized cost and market value of the trust fund, credit  
 151 quality, and average maturity of the trust fund investments.

152 (4) The trustees shall review the board's progress in  
 153 returning the principal in the trust fund to the participants at  
 154 each meeting of the board until the trust fund self-liquidates  
 155 or is terminated by law.

156 Section 3. Section 218.422, Florida Statutes, is created  
 157 to read:

158 218.422 Fund B Surplus Funds Trust Fund; review.--Unless  
 159 the Fund B Surplus Funds Trust Fund has been terminated by law  
 160 or through self-liquidation, prior to the 2013 Regular Session  
 161 of the Legislature, the Auditor General shall review the trust  
 162 fund and the steps taken up to that time to return as much of  
 163 the principal to the participants as possible and provide a  
 164 summary report to the board, the trustees, the President of the  
 165 Senate, the Speaker of the House of Representatives, the

CS/HB 7099

2008

166 Investment Advisory Council, and the Participant Local  
167 Government Advisory Council.

168 Section 4. Sections 218.418, 218.421, and 218.422, Florida  
169 Statutes, as created by this act, shall expire at the time the  
170 Fund B Surplus Funds Trust Fund is terminated by law or self-  
171 liquidates as determined and announced by the executive director  
172 of the State Board of Administration, whichever occurs first.

173 Section 5. This act shall take effect upon becoming a law,  
174 if House Bill 7097 or similar legislation is adopted in the same  
175 legislative session or an extension thereof and becomes law.