

1                   A bill to be entitled  
2           An act relating to the State Board of Administration;  
3           amending s. 215.44, F.S.; requiring that the board create  
4           an audit committee for specified purposes; providing for  
5           membership of the committee; providing requirements for  
6           members of the committee; prescribing terms for members;  
7           providing that members are state officers as defined by  
8           state law; providing duties and powers of the committee;  
9           requiring that the executive director of the board respond  
10          in writing and indicate whether action will be taken  
11          within a specified period after receipt of a  
12          recommendation from the committee; requiring that a copy  
13          of the executive director's response be provided to the  
14          board and the committee; requiring that the committee  
15          appoint a Chief of Internal Audit; providing powers and  
16          obligations of the chief; authorizing the board to  
17          prescribe additional powers and duties to the committee;  
18          amending s. 215.441, F.S.; requiring that the board  
19          appoint an executive director; providing requirements for  
20          appointment as executive director; providing duties of the  
21          executive director; authorizing the board to set  
22          additional requirements for appointment; requiring  
23          affirmation of such appointment by the Investment Advisory  
24          Council; providing that the executive director is a state  
25          officer for purposes of certain provisions of state law;  
26          amending s. 215.442, F.S.; requiring that the executive  
27          director's quarterly report to the board of trustees of  
28          the State Board of Administration and the Investment

29 | Advisory Council contain certain information; amending s.  
30 | 215.444, F.S.; increasing the number of members of the  
31 | Investment Advisory Council; requiring that the council  
32 | make certain recommendations; requiring that the council  
33 | approve all new products considered for investment by the  
34 | board; requiring that a specified number of members of the  
35 | council represent specified interests; providing that  
36 | members are state officers for purposes of certain  
37 | provisions of state law; amending s. 215.47, F.S.;  
38 | conforming cross-references; amending s. 215.475, F.S.;  
39 | requiring that the Investment Advisory Council assist in  
40 | the development of the Florida Retirement System Defined  
41 | Benefit Plan Investment Policy Statement; authorizing the  
42 | board's executive director to present recommended IPS  
43 | changes to the Investment Advisory Council for approval;  
44 | deleting provisions requiring the review of recommended  
45 | changes to the statement by the council; creating s.  
46 | 215.4754, F.S.; requiring that the board adopt by rule  
47 | standards of conduct for investment advisers and managers;  
48 | providing circumstances under which a contract with an  
49 | investment adviser or manager is voidable; prohibiting an  
50 | Investment Advisory Council member or certain  
51 | organizations or affiliates from contracting with or  
52 | providing services for certain investments for a specified  
53 | period; creating s. 215.4755, F.S.; requiring that an  
54 | investment adviser or manager disclose certain information  
55 | to the board; requiring that an investment adviser or  
56 | manager annually file a statement with the board;

HB 1427

2009

57 requiring that the statement contain certain information  
58 and be filed on or before a specified deadline on a form  
59 prescribed by the board; requiring that the statement  
60 cover the preceding calendar year; requiring that an  
61 investment adviser or manager file a new or amended  
62 statement under certain circumstances; amending s.  
63 218.409, F.S.; requiring that the board create a  
64 participating investor council; providing purposes of the  
65 council; providing an effective date.

66  
67 Be It Enacted by the Legislature of the State of Florida:

68  
69 Section 1. Present subsections (3) through (9) of section  
70 215.44, Florida Statutes, are renumbered as subsections (4)  
71 through (10), respectively, and a new subsection (3) is added to  
72 that section to read:

73 215.44 Board of Administration; powers and duties in  
74 relation to investment of trust funds.--

75 (3) (a) The board shall create an audit committee to assist  
76 the board in fulfilling its oversight responsibilities in the  
77 areas of financial reporting, internal controls and risk  
78 assessment, audit processes, and compliance with laws and rules.  
79 The audit committee shall be chaired by the Chief Financial  
80 Officer and shall consist of six members. The Governor and the  
81 Attorney General shall each appoint two members to the audit  
82 committee, and the Chief Financial Officer shall appoint one  
83 member. Each member must be independent and free from any  
84 relationship that would interfere with the exercise of his or

HB 1427

2009

85 her independent judgment as a member of the committee. Each  
86 member shall be appointed to a term of 4 years and shall serve  
87 at the pleasure of his or her appointing authority. Persons  
88 appointed to the audit committee must have relevant knowledge  
89 and expertise as determined by the board. Members of the  
90 committee are state officers for purposes of s. 112.3145.

91 (b) The audit committee shall independently and  
92 objectively monitor on an ongoing basis the board's processes  
93 for financial reporting, internal controls and risk assessment,  
94 and compliance with laws, rules, and regulations. The audit  
95 committee shall direct the efforts of the board's independent  
96 external auditors and the board's internal audit staff. The  
97 committee shall report, at least quarterly, all findings and  
98 recommendations to the executive director and the board.

99 (c) The audit committee may:

100 1. Seek any information it requires from employees of the  
101 board, who shall provide such information upon request, and from  
102 third parties;

103 2. Meet, as necessary, with the Investment Advisory  
104 Council, the investor council, board employees, or external  
105 auditors;

106 3. Review the budget for the Office of Internal Audit; and

107 4. Retain outside accountants, consultants, attorneys, or  
108 others approved by the board to assist in conducting an audit,  
109 review, or special investigation as directed by the board.

110 (d) Upon receipt of any recommendation from the committee,  
111 the executive director shall, within 30 days after receipt,  
112 respond in writing and indicate whether action will be taken.

HB 1427

2009

113 The executive director shall specify the action that will be  
114 taken or the reasons for not taking action. A copy of the  
115 executive director's written response shall be provided to the  
116 committee and the board.

117 (e) The committee shall appoint a Chief of Internal Audit,  
118 who shall have those powers and duties set by the committee and  
119 report to the committee.

120 (f) The committee shall have additional powers and duties  
121 as set by the board.

122 Section 2. Section 215.441, Florida Statutes, is amended  
123 to read:

124 215.441 Board of Administration; appointment of executive  
125 director.--

126 (1) The State Board of Administration shall appoint an  
127 executive director to manage and invest funds as directed by the  
128 board. The executive director must have proven knowledge and  
129 expertise in overseeing institutional investment portfolios and  
130 must have extensive experience in any two or more of the  
131 following areas: domestic equity or fixed-income securities,  
132 international equity or fixed-income securities, cash  
133 management, alternative investments, managed futures, or real  
134 estate investment trusts. The board may set additional  
135 requirements for appointment.

136 (2) The appointment of the executive director ~~of the State~~  
137 ~~Board of Administration~~ shall be subject to the approval by a  
138 majority vote of the Board of Trustees of the State Board of  
139 Administration, and the Governor must vote on the prevailing  
140 side. Such appointment must be affirmed by the Investment

141 Advisory Council and reaffirmed in the same manner by the board  
 142 of trustees on an annual basis.

143 (3) The executive director is a state officer for purposes  
 144 of s. 112.3145.

145 Section 3. Subsection (1) of section 215.442, Florida  
 146 Statutes, is amended to read:

147 215.442 Executive director; reporting requirements; public  
 148 meeting.--

149 ~~(1) Beginning October 2007 and quarterly thereafter,~~ The  
 150 executive director shall present to the Board of Trustees of the  
 151 State Board of Administration and the Investment Advisory  
 152 Council a quarterly report to include the following:

153 (a) The name of each equity and alternative investment in  
 154 which the State Board of Administration has invested for the  
 155 quarter.

156 (b) The industry category of each equity.

157 (c) The type and value of assets that have been downgraded  
 158 during the preceding quarter.

159 Section 4. Section 215.444, Florida Statutes, is amended  
 160 to read:

161 215.444 Investment Advisory Council.--

162 (1) There is created a nine-member ~~six-member~~ Investment  
 163 Advisory Council to review the investments made by the staff of  
 164 the Board of Administration and to make recommendations to the  
 165 board regarding investment policy, strategy, and procedures. The  
 166 council shall recommend asset allocations for funds held by the  
 167 board and shall approve all new product types considered for  
 168 investment by the board.

HB 1427

2009

169 (2) The members of the council shall be appointed by the  
170 board and shall be subject to confirmation by the Senate. The  
171 members must include one member representing local governments,  
172 one member representing a state employees' union in the Regular  
173 Class, one member representing a teachers' union, one member  
174 representing a police union, one member representing a  
175 firefighters' union, and one beneficiary of the Florida  
176 Retirement System. These individuals shall possess special  
177 knowledge, experience, and familiarity with financial  
178 investments and portfolio management. Members shall be appointed  
179 for 4-year terms. A vacancy shall be filled for the remainder of  
180 the unexpired term. The council shall annually elect a chair and  
181 a vice chair from its membership. A member may not be elected to  
182 consecutive terms as chair or vice chair. Members of the council  
183 are state officers for purposes of s. 112.3145.

184 Section 5. Subsection (15) of section 215.47, Florida  
185 Statutes, is amended to read:

186 215.47 Investments; authorized securities; loan of  
187 securities.--Subject to the limitations and conditions of the  
188 State Constitution or of the trust agreement relating to a trust  
189 fund, moneys available for investments under ss. 215.44-215.53  
190 may be invested as follows:

191 (15) With no more, in the aggregate, than 10 percent of  
192 any fund in alternative investments, as defined in s.  
193 215.44(9)(c)1.a. ~~s. 215.44(8)(c)1.a.~~, through participation in  
194 the vehicles defined in s. 215.44(9)(c)1.b. ~~s. 215.44(8)(c)1.b.~~,  
195 or in securities or investments that are not publicly traded and  
196 are not otherwise authorized by this section.

HB 1427

2009

197 Section 6. Section 215.475, Florida Statutes, is amended  
 198 to read:

199 215.475 Investment policy statement.--

200 ~~(1)~~ In making investments for the System Trust Fund  
 201 pursuant to ss. 215.44-215.53, the board shall make no  
 202 investment which is not in conformance with the Florida  
 203 Retirement System Defined Benefit Plan Investment Policy  
 204 Statement, hereinafter referred to as "the IPS," as developed by  
 205 the executive director and the Investment Advisory Council and  
 206 approved by the board. The IPS must include, among other items,  
 207 the investment objectives of the System Trust Fund; permitted  
 208 types of securities in which the board may invest; and  
 209 evaluation criteria necessary to measure the investment  
 210 performance of the fund. As required from time to time, the  
 211 executive director of the board may present recommended changes  
 212 in the IPS to the board and the Investment Advisory Council for  
 213 approval.

214 ~~(2) Prior to any recommended changes in the IPS being~~  
 215 ~~presented to the board, the executive director of the board~~  
 216 ~~shall present such changes to the Investment Advisory Council~~  
 217 ~~for review. The council shall present the results of its review~~  
 218 ~~to the board prior to the board's final approval of the IPS or~~  
 219 ~~changes in the IPS.~~

220 Section 7. Section 215.4754, Florida Statutes, is created  
 221 to read:

222 215.4754 Ethics requirements for investment advisers and  
 223 managers.--

224 (1) The board shall adopt by rule standards of conduct



225 applicable to investment advisers and managers retained pursuant  
 226 to s. 215.44(2)(b).

227 (2) A contract under which an investment adviser or  
 228 manager renders financial services or advice to the board is  
 229 voidable by the board if the investment adviser or manager  
 230 violates a standard of conduct adopted under this section.

231 (3) An Investment Advisory Council member or such member's  
 232 business organization or affiliate may not directly or  
 233 indirectly contract with or provide any services for the  
 234 investment of state trust funds during the time of such member's  
 235 service on the council or for 1 year thereafter.

236 Section 8. Section 215.4755, Florida Statutes, is created  
 237 to read:

238 215.4755 Disclosure requirements for investment advisers  
 239 and managers.--

240 (1) An investment adviser or manager retained pursuant to  
 241 s. 215.44(2)(b) shall disclose in writing to the board:

242 (a) Any relationship the investment adviser or manager has  
 243 with any party to a transaction with the board, other than a  
 244 relationship necessary to the investment or funds-management  
 245 services that the investment adviser or manager performs for the  
 246 board, if a prudent person could expect the relationship to  
 247 diminish the investment adviser's or manager's independence of  
 248 judgment in the performance of his or her responsibilities to  
 249 the board. The investment adviser or manager shall disclose a  
 250 relationship described in this paragraph without regard to  
 251 whether the relationship is a direct, indirect, personal,  
 252 private, commercial, or business relationship.

253 (b) All direct or indirect pecuniary interests the  
 254 investment adviser or manager has in any party to a transaction  
 255 with the board, if the transaction is connected with any  
 256 financial advice or service the investment adviser or manager  
 257 provides to the board in connection with the management or  
 258 investment of funds pursuant to s. 215.44(1).

259 (2) An investment adviser or manager retained pursuant to  
 260 s. 215.44(2) (b) shall annually file a statement with the board  
 261 disclosing each relationship or pecuniary interest described by  
 262 this section. If no such relationship or pecuniary interest  
 263 existed during the disclosure period, the statement must  
 264 affirmatively state that fact.

265 (a) The annual statement shall be filed no later than  
 266 January 1 on a form prescribed by the board. The statement shall  
 267 cover the reporting period of the previous calendar year.

268 (b) The investment adviser or manager shall promptly file  
 269 a new or amended statement with the board whenever there is new  
 270 information to report under this section.

271 Section 9. Present subsections (9) and (10) of section  
 272 218.409, Florida Statutes, are renumbered as subsections (10)  
 273 and (11), respectively, and a new subsection (9) is added to  
 274 that section to read:

275 218.409 Administration of the trust fund; creation of  
 276 advisory council.--

277 (9) The State Board of Administration shall create a  
 278 participating investor council to advise the board regarding the  
 279 investment practices, internal controls and risk assessment, and  
 280 audit processes for funds invested by the board pursuant to this

HB 1427

2009

281 | part.

282 | Section 10. This act shall take effect July 1, 2009.