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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/10/2009	.	
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The Committee on Community Affairs (Deutch) recommended the following:

Senate Amendment (with title amendment)

Delete lines 200 - 279

and insert:

Section 3. Subsection (7) is added to section 175.071, Florida Statutes, and subsection (1) of that section, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:



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12 (1) The board of trustees, subject to the fiduciary
13 standards in ss. 112.656, 112.661, and 518.11 and the Code of
14 Ethics in ss. 112.311-112.3187, may:

15 (a) Invest and reinvest the assets of the firefighters'
16 pension trust fund in annuity and life insurance contracts of
17 life insurance companies in amounts sufficient to provide, in
18 whole or in part, the benefits to which all of the participants
19 in the firefighters' pension trust fund shall be entitled under
20 the provisions of this chapter and pay the initial and
21 subsequent premiums thereon.

22 (b) Invest and reinvest the assets of the firefighters'
23 pension trust fund in:

24 1. Time or savings accounts of a national bank, a state
25 bank insured by the Bank Insurance Fund, or a savings, building,
26 and loan association insured by the Savings Association
27 Insurance Fund which is administered by the Federal Deposit
28 Insurance Corporation or a state or federal chartered credit
29 union whose share accounts are insured by the National Credit
30 Union Share Insurance Fund.

31 2. Obligations of the United States or obligations
32 guaranteed as to principal and interest by the government of the
33 United States.

34 3. Bonds issued by the State of Israel.

35 4. Bonds, stocks, or other evidences of indebtedness issued
36 or guaranteed by a corporation organized under the laws of the
37 United States, any state or organized territory of the United
38 States, or the District of Columbia, provided:

39 a. The corporation is listed on any one or more of the
40 recognized national stock exchanges or on the National Market



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41 System of the NASDAQ Stock Market and, in the case of bonds
42 only, holds a rating in one of the three highest classifications
43 by a major rating service; and

44 b. The board of trustees shall not invest more than 5
45 percent of its assets in the common stock or capital stock of
46 any one issuing company, nor shall the aggregate investment in
47 any one issuing company exceed 5 percent of the outstanding
48 capital stock of that company or the aggregate of its
49 investments under this subparagraph at cost exceed 50 percent of
50 the assets of the fund.

51
52 This paragraph shall apply to all boards of trustees and
53 participants. However, in the event that a municipality or
54 special fire control district has a duly enacted pension plan
55 pursuant to, and in compliance with, s. 175.351, and the
56 trustees thereof desire to vary the investment procedures
57 herein, the trustees of such plan shall request a variance of
58 the investment procedures as outlined herein only through a
59 municipal ordinance, special act of the Legislature, or
60 resolution by the governing body of the special fire control
61 district; where a special act, or a municipality by ordinance
62 adopted prior to July 1, 1998, permits a greater than 50-percent
63 equity investment, such municipality shall not be required to
64 comply with the aggregate equity investment provisions of this
65 paragraph. Notwithstanding any other provision of law to the
66 contrary, nothing in this section may be construed to take away
67 any preexisting legal authority to make equity investments that
68 exceed the requirements of this paragraph. Notwithstanding any
69 law to the contrary, the board of trustees may invest up to 25



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70 ~~10~~ percent of plan assets in foreign securities on a market-
71 value basis. The investment cap on foreign securities may not be
72 revised, amended, increased, or repealed except as provided by
73 general law.

74 (c) Issue drafts upon the firefighters' pension trust fund
75 pursuant to this act and rules and regulations prescribed by the
76 board of trustees. All such drafts shall be consecutively
77 numbered, be signed by the chair and secretary or by two
78 individuals designated by the board who are subject to the same
79 fiduciary standards as required for the board of trustees under
80 this subsection, and state upon their faces the purpose for
81 which the drafts are drawn. The treasurer or depository of each
82 municipality or special fire control district shall retain such
83 drafts when paid, as permanent vouchers for disbursements made,
84 and no money shall be otherwise drawn from the fund.

85 (d) Convert into cash any securities of the fund.

86 (e) Keep a complete record of all receipts and disbursements and
87 of the board's acts and proceedings.

88 (7) Notwithstanding the provisions of paragraph (1)(b) and
89 as provided in s. 215.473, the board of trustees must identify
90 and publicly report any direct or indirect holdings it may have
91 in any scrutinized company, as defined in that section, and
92 proceed to sell, redeem, divest, or withdraw all publicly traded
93 securities it may have in such company beginning January 1,
94 2010. The divestiture of any such security must be completed by
95 March 1, 2010. The board and its named officers or investment
96 advisors may not be deemed to have breached their fiduciary duty
97 in any action taken to dispose of any such security, and the
98 board shall have satisfactorily discharged the fiduciary duties



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99 of loyalty, prudence, and sole and exclusive benefit to the
100 participants of the pension fund and their beneficiaries if the
101 actions it takes are consistent with the duties imposed by s.
102 215.473, and the manner of the disposition, if any, is
103 reasonable as to the means chosen. For the purposes of effecting
104 compliance with that section, the pension fund shall designate
105 terror-free plans that allocate their funds among securities not
106 subject to divestiture. No person may bring any civil, criminal,
107 or administrative action against the board of trustees or any
108 employee, officer, director, or advisor of such pension fund
109 based upon the divestiture of any security pursuant to this
110 paragraph.

111
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Delete lines 22 - 23

115 and insert:

116 providing that investment caps on foreign securities may only be
117 amended, repealed, or increased by an act of the Legislature;
118 authorizing certain individuals to sign drafts issued upon the
119 firefighters' pension trust fund; requiring the board of
120 trustees to identify and divest of any scrutinized companies by
121 a certain date; amending