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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 631 - 709
and insert:

Section 10. Subsection (7) is added to section 185.06, Florida Statutes, and subsection (1) of that section is amended to read:

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

- (1) The board of trustees, subject to the fiduciary



410350

12 standards in ss. 112.656, 112.661, and 518.11 and the Code of
13 Ethics in ss. 112.311-112.3187, may:

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

21 (b) Invest and reinvest the assets of the retirement trust
22 fund in:

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

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

32 3. Bonds issued by the State of Israel.

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

37 a. The corporation is listed on any one or more of the
38 recognized national stock exchanges or on the National Market
39 System of the NASDAQ Stock Market and, in the case of bonds
40 only, holds a rating in one of the three highest classifications



410350

41 by a major rating service; and

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

49
50 This paragraph shall apply to all boards of trustees and
51 participants. However, in the event that a municipality has a
52 duly enacted pension plan pursuant to, and in compliance with,
53 s. 185.35 and the trustees thereof desire to vary the investment
54 procedures herein, the trustees of such plan shall request a
55 variance of the investment procedures as outlined herein only
56 through a municipal ordinance or special act of the Legislature;
57 where a special act, or a municipality by ordinance adopted
58 prior to July 1, 1998, permits a greater than 50-percent equity
59 investment, such municipality shall not be required to comply
60 with the aggregate equity investment provisions of this
61 paragraph. Notwithstanding any other provision of law to the
62 contrary, nothing in this section may be construed to take away
63 any preexisting legal authority to make equity investments that
64 exceed the requirements of this paragraph. Notwithstanding any
65 law to the contrary, the board of trustees may invest up to 25
66 10 percent of plan assets in foreign securities on a market-
67 value basis. The investment cap on foreign securities may not be
68 revised, amended, repealed, or increased except as provided by
69 general law.



410350

70 (c) Issue drafts upon the municipal police officers'
71 retirement trust fund pursuant to this act and rules and
72 regulations prescribed by the board of trustees. All such drafts
73 shall be consecutively numbered, be signed by the chair and
74 secretary or by two individuals designated by the board who are
75 subject to the same fiduciary standards as required for the
76 board of trustees under this subsection, and state upon their
77 faces the purposes for which the drafts are drawn. The city
78 treasurer or other depository shall retain such drafts when
79 paid, as permanent vouchers for disbursements made, and no money
80 shall otherwise be drawn from the fund.

81 (d) Finally decide all claims to relief under the board's
82 rules and regulations and pursuant to the provisions of this
83 act.

84 (e) Convert into cash any securities of the fund.

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

87 (7) Notwithstanding the provisions of paragraph (1)(b) and
88 as provided in s. 15.473, the board of trustees must identify
89 and publicly report any direct or indirect holdings it may have
90 in any scrutinized company, as defined in that section, and
91 proceed to sell, redeem, divest, or withdraw all publicly traded
92 securities it may have in such company beginning January 1,
93 2010. The divestiture of any such security must be completed by
94 March 1, 2010. The board and its named officers or investment
95 advisors may not be deemed to have breached their fiduciary duty
96 in any action taken to dispose of any such security, and the
97 board shall have satisfactorily discharged the fiduciary duties
98 of loyalty, prudence, and sole and exclusive benefit to the



410350

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

110

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

112 And the title is amended as follows:

113 Delete lines 63 - 65

114 and insert:

115 providing that the investment cap on foreign securities may only
116 be amended, repealed, or increased by an act of the Legislature;
117 authorizing certain individuals to sign drafts issued upon the
118 municipal police officers' retirement trust fund; requiring the
119 board of trustees to identify and divest of any scrutinized
120 companies by a date certain; amending s. 185.08, F.S.;

121 authorizing certain