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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2010	.	
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The Policy and Steering Committee on Ways and Means (Alexander) recommended the following:

Senate Amendment (with title amendment)

Delete lines 485 - 563
and insert:

Section 6. Subsections (1) and (2) of section 215.44, Florida Statutes, are amended to read:

215.44 Board of Administration; powers and duties in relation to investment of trust funds.—

(1) Except as ~~when~~ otherwise specifically provided by the State Constitution and subject to any limitations of the trust agreement relating to a trust fund, the Board of Administration,



13 hereinafter sometimes referred to as "trustees" or "board,"
14 composed of the Governor as chair, the Chief Financial Officer,
15 and the Attorney General, shall invest all the funds in the
16 System Trust Fund, as defined in s. 121.021 ~~s. 121.021(36)~~, and
17 all other funds specifically required by law to be invested by
18 the board pursuant to ss. 215.44-215.53 to the fullest extent
19 that is consistent with the cash requirements, trust agreement,
20 and investment objectives of the fund.

21 (a) Notwithstanding any other law to the contrary, the
22 State Board of Administration may invest any funds of any state
23 agency, any state university or college, or any unit of local
24 government, or any direct-support organization thereof pursuant
25 to the terms of a trust agreement with the head or governing
26 body of the respective entity state agency or the governing body
27 of the unit of local government, or pursuant to the enrollment
28 requirements stated in s. 218.407, including investing such
29 funds in the Local Government Surplus Funds Trust Fund
30 established by s. 218.405 which trust agreement shall govern the
31 investment of such funds, provided that.

32 (b) The board shall approve the undertaking of investments
33 subject to a trust agreement such investment before execution of
34 the trust agreement by the State Board of Administration. The
35 funds and the earnings therefrom are exempt from the service
36 charge imposed by s. 215.20.

37 (c) As used in this subsection, the term "state agency" has
38 the same meaning as that provided in s. 216.011(1) ~~s. 216.001~~,
39 and the terms "governing body" and "unit of local government"
40 have the same meaning as that provided in s. 218.403.

41 (2) (a) The board shall have the power to make purchases,



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42 sales, exchanges, investments, and reinvestments for and on
43 behalf of the funds referred to in subsection (1), and it shall
44 be the duty of the board to see that moneys invested under the
45 provisions of ss. 215.44-215.53 are at all times handled in the
46 best interests of the state.

47 (b) Pursuant to s. 110.205, the State Board of
48 Administration shall establish and maintain the salaries and
49 benefits of its officers and employees in a manner consistent
50 with the board's fiduciary responsibility to recruit and retain
51 highly qualified and effective key personnel. Not less than
52 every 5 years, the Investment Advisory Council shall cause a
53 total compensation study to be conducted by a private consulting
54 firm having expertise in institutional investments salary and
55 benefit administration. The study shall be designed to determine
56 competitive salary ranges, other compensation, and benefits for
57 positions within the board based on comparable public-sector
58 peer investment entities. The Investment Advisory Council shall
59 present the total compensation study along with its
60 recommendations to the board, and such recommendations are
61 subject to review and ratification or reversal by the board. The
62 board may delegate to the executive director the authority and
63 duty to set staff salaries within the ranges approved by the
64 board.

65 (c) ~~(b)~~ In exercising investment authority pursuant to s.
66 215.47, the board may retain investment advisers or managers, or
67 both, external to in-house staff, to assist the board in
68 carrying out the power specified in paragraph (a).

69 (d) The board shall create an audit committee to assist the
70 board in fulfilling its oversight responsibilities. The



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71 committee shall consist of three members appointed by the board.
72 Members shall be appointed for 4-year terms. A vacancy shall be
73 filled for the remainder of the unexpired term. The committee
74 shall annually elect a chair and vice chair from its membership.
75 A member may not be elected to consecutive terms as chair or
76 vice chair. Persons appointed to the audit committee must have
77 relevant knowledge and expertise as determined by the board. The
78 audit committee shall serve as an independent and objective
79 party to monitor processes for financial reporting, internal
80 controls and risk assessment, audit processes, and compliance
81 with laws, rules, and regulations. The audit committee shall
82 direct the efforts of the board's independent external auditors
83 and the board's internal audit staff. The committee shall
84 periodically, but not less than quarterly, report to the
85 executive director of the state board and the board. The board
86 shall produce a set of financial statements for the Florida
87 Retirement System programs on an annual basis, which shall be
88 reported to the Legislature and audited by a commercial
89 independent third-party audit firm under the direction of the
90 audit committee.

91 (e) The board shall meet at least quarterly and shall
92 receive reports from the audit committee, investment advisory
93 committee, inspector general, general counsel, executive
94 director, and such other persons or entities as the board may
95 require about the financial status, operations, and investment
96 activities of the board.

97 Section 7. Section 215.441, Florida Statutes, is amended to
98 read:

99 215.441 Board of Administration; appointment of executive



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100 director.-

101 (1) The board shall appoint an executive director to manage
102 and invest funds as directed by the board. The executive
103 director shall, at a minimum, possess substantial experience,
104 proven knowledge, and expertise in the oversight of
105 institutional investment portfolios and must meet any other
106 requirements determined by the board to be necessary to the
107 overall management and investment of funds.

108 (2) The appointment of the executive director of the State
109 Board of Administration shall be subject to the approval by a
110 majority vote of the Board of Trustees of the State Board of
111 Administration, and the Governor must vote on the prevailing
112 side. Such appointment must be reaffirmed in the same manner by
113 the board of trustees on an annual basis.

114 (3) The compensation for the executive director shall be
115 determined by the board, consistent with the requirements of s.
116 215.44(2)(b).

117 (4) Before the appointment of the executive director, the
118 board shall appoint a search committee to develop minimum
119 position requirements, review applications, and make
120 recommendations to the board with regard to qualified applicants
121 for the position. At a minimum, the search committee shall
122 consist of at least three members of the Investment Advisory
123 Council.

124 Section 8. Subsection (1) of section 215.442, Florida
125 Statutes, is amended to read:

126 215.442 Executive director; reporting requirements; public
127 meeting.-

128 (1) Beginning October 2007 and quarterly thereafter, the



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129 executive director shall present to the Board of Trustees and
130 the Investment Advisory Council of the State Board of
131 Administration a quarterly report to include the following:

132 (a) The name of each equity in which the State Board of
133 Administration has invested for the quarter.

134 (b) The industry category of each equity.

135 Section 9. Section 215.444, Florida Statutes, is amended to
136 read:

137 215.444 Investment Advisory Council.—

138 (1) There is created a six-member Investment Advisory
139 Council to review the investments made by the staff of the Board
140 of Administration and to make recommendations to the board
141 regarding investment policy, strategy, and procedures. The
142 council shall meet with staff of the board no less than
143 quarterly and shall provide a quarterly report directly to the
144 trustees at a meeting of the board.

145 (2) The members of the council shall be appointed by the
146 board as a resource to the trustees and shall be subject to
147 confirmation by the Senate. These individuals shall possess
148 special knowledge, experience, and familiarity with ~~financial~~
149 ~~investments and portfolio management,~~ institutional investments,
150 and fiduciary responsibilities. Individuals may have extensive
151 experience in managing or overseeing investment portfolios or
152 providing research to any two or more of the following areas:
153 domestic equities, international equities, fixed-income
154 securities, cash management, marketable and nonmarketable
155 alternative investments, or real estate. Members shall be
156 appointed for 4-year terms. A vacancy shall be filled for the
157 remainder of the unexpired term. The council shall annually



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158 elect a chair and a vice chair from its membership. A member may
159 not be elected to consecutive terms as chair or vice chair.

160 (3) In carrying out the provisions of this section, a
161 member of the council is an officer, employee, or agent of the
162 state for purposes of the state's waiver of sovereign immunity
163 contained in s. 768.28. This section does not make appointees to
164 the council fiduciaries; however, appointees to the council must
165 undergo regular fiduciary training as required by the board, and
166 must complete an annual conflict disclosure statement. In
167 carrying out their duties, council members must make
168 recommendations consistent with the fiduciary standards
169 applicable to the board.

170 (4) In addition to the duties in subsection (1), the duties
171 of the council shall include approval of the investment policy
172 statements of the board, participation in the selection process
173 regarding an executive director, engaging periodic compensation
174 studies and providing recommendations thereon, meeting quarterly
175 to review the investment performance of funds, and any other
176 duties as determined by the board. The council may create
177 subcommittees as necessary to carry out its duties and
178 responsibilities and may direct the executive director to enter
179 into contracts with independent compensation consultants.

180 Section 10. Paragraphs (b) and (c) of subsection (1),
181 paragraph (a) of subsection (2), and subsection (5) of section
182 215.47, Florida Statutes, are amended, paragraph (o) is added to
183 subsection (1) of that section, and subsection (20) is added to
184 that section, to read:

185 215.47 Investments; authorized securities; loan of
186 securities.—Subject to the limitations and conditions of the



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187 State Constitution or of the trust agreement relating to a trust
188 fund, moneys available for investments under ss. 215.44-215.53
189 may be invested as follows:

190 (1) Without limitation in:

191 (b) ~~State Bonds, notes, or obligations of any state,~~
192 organized territory of the United States, or the District of
193 Columbia which pledge ~~pledging~~ the full faith and credit of the
194 state, territory, or district; and revenue bonds, notes, or
195 obligations of any state, organized territory of the United
196 States, or the District of Columbia additionally secured by the
197 full faith and credit of the state, territory, or district.

198 (c) Bonds, notes, or obligations of the several counties or
199 districts in any ~~the~~ state, organized territory of the United
200 States, or the District of Columbia containing a pledge of the
201 full faith and credit of the county or district involved.

202 (o) Bonds, notes, or obligations described in 26 U.S.C. s.
203 149(g)(3)(B), if investment in such bonds, notes, or obligations
204 is necessary in order to comply with covenants in documents or
205 proceedings relating to bonds issued pursuant to s. 215.555(6).
206 Investments made pursuant to this paragraph may be purchased
207 only from the proceeds of bonds issued pursuant to s. 215.555(6)
208 and must be authorized under documents or proceedings relating
209 to such bonds.

210 (2) With no more than 25 percent of any fund in:

211 (a) Bonds, notes, or obligations of any state or organized
212 territory of the United States or the District of Columbia; of
213 any municipality or political subdivision, or any agency,
214 district, or authority thereof; or of any agency or authority of
215 this state, if the obligations are rated investment grade by at



216 least one nationally recognized statistical rating organization.

217 (5) With no more than 25 percent of any fund in corporate
218 obligations and securities of any kind of a foreign corporation
219 or a foreign commercial entity having its principal office
220 located in any country other than the United States ~~of America~~
221 or its possessions or territories, not including United States
222 dollar-denominated securities listed and traded on a United
223 States exchange which are a part of the ordinary investment
224 strategy of the board.

225 (20) Notwithstanding the provisions in subsection (5)
226 limiting such investments to 25 percent of any fund, the board
227 may invest no more than 35 percent of any fund in corporate
228 obligations and securities of any kind of a foreign corporation
229 or a foreign commercial entity having its principal office
230 located in any country other than the United States or its
231 possessions or territories, not including United States dollar-
232 denominated securities listed and traded on a United States
233 exchange which are a part of the ordinary investment strategy of
234 the board.

235 Section 11. Subsection (1) of section 215.475, Florida
236 Statutes, is amended to read:

237 215.475 Investment policy statement.—

238 (1) In making investments for the System Trust Fund
239 pursuant to ss. 215.44-215.53, the board shall make no
240 investment which is not in conformance with the Florida
241 Retirement System Defined Benefit Plan Investment Policy
242 Statement, hereinafter referred to as "the IPS," as developed by
243 the executive director and approved by the Investment Advisory
244 Council and the board. The IPS must include, among other items,



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245 the investment objectives of the System Trust Fund; permitted
246 types of securities in which the board may invest; and
247 evaluation criteria necessary to measure the investment
248 performance of the fund. As required from time to time, the
249 executive director of the board may present recommended changes
250 in the IPS to the Investment Advisory Council and the board for
251 approval.

252 Section 12. Section 215.4754, Florida Statutes, is created
253 to read:

254 215.4754 Ethics requirements for investment advisers and
255 managers and members of the Investment Advisory Council.—The
256 intent of this section is to promote independence and the
257 avoidance of conflicts and improper influence by certain
258 investment advisers and managers without creating unnecessary
259 barriers to the board performing its investment duties
260 consistent with its fiduciary standards, investment performance,
261 and business relationships.

262 (1) A contract under which an investment adviser or manager
263 has been retained to exercise investment authority on behalf of
264 the board for direct holdings, as defined in s. 215.473(1)(e),
265 shall require that the investment adviser or manager abide by a
266 standard of conduct pursuant to s. 215.4755, and any such
267 contract may be terminated by the board if the investment
268 adviser or manager violates such standard of conduct.

269 (2) An Investment Advisory Council member or any business
270 organization or any affiliate thereof which is owned by or
271 employs such member may not directly or indirectly contract with
272 or provide any services for the investment of trust funds
273 invested by the board during the time of such member's service



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274 on the council or for 2 years thereafter.

275 Section 13. Section 215.4755, Florida Statutes, is created
276 to read:

277 215.4755 Certification and disclosure requirements for
278 investment advisers and managers.-

279 (1) An investment adviser or manager who has discretionary
280 investment authority for direct holdings, as defined in s.
281 215.473(1)(e), and who is retained as provided in s.
282 215.44(2)(c) shall agree pursuant to contract to annually
283 certify in writing to the board that:

284 (a) All investment decisions made on behalf of the trust
285 funds and the board are made in the best interests of the trust
286 funds and the board, and not made in a manner to the advantage
287 of such investment adviser or manager, other persons, or clients
288 to the detriment of the trust funds and the board.

289 (b) Appropriate policies, procedures, or other safeguards
290 have been adopted and implemented to ensure that relationships
291 with any affiliated persons or entities do not adversely
292 influence the investment decisions made on behalf of the trust
293 funds and the board.

294 (c) A written code of ethics, conduct, or other set of
295 standards, which governs the professional behavior and
296 expectations of owners, general partners, directors or managers,
297 officers, and employees of the investment adviser or manager,
298 has been adopted and implemented and is effectively monitored
299 and enforced. The investment advisers' and managers' code of
300 ethics shall require that:

301 1. Officers and employees involved in the investment
302 process shall refrain from personal business activity that could



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303 conflict with the proper execution and management of the
304 investment program over which the investment adviser or manager
305 has discretionary investment authority or that could impair
306 their ability to make impartial decisions with respect to such
307 investment program; and

308 2. Officers and employees shall refrain from undertaking
309 personal investment transactions with the same individual with
310 whom business is conducted on behalf of the board.

311 (d) The investment adviser or manager has proactively and
312 promptly disclosed to the board, notwithstanding subsection (2),
313 any known circumstances or situations that a prudent person
314 could expect to create an actual, potential, or perceived
315 conflict of interest, including specifically:

316 1. Any material interests in or with financial institutions
317 with which officers and employees conduct business on behalf of
318 the trust funds and the board; and

319 2. Any personal financial or investment positions of the
320 investment advisor or manager which could be related to the
321 performance of an investment program over which the investment
322 adviser or manager has discretionary investment authority on
323 behalf of the board.

324 (2) At the board's request, an investment adviser or
325 manager who has discretionary investment authority over direct
326 holdings, as defined in s. 215.473(1) (e), and who is retained as
327 provided in s. 215.44(2) (c) shall disclose in writing to the
328 board:

329 (a) Any nonconfidential, nonproprietary information or
330 reports to substantiate the certifications required under
331 subsection (1).



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332 (b) All direct or indirect pecuniary interests that the
333 investment adviser or manager has in or with any party to a
334 transaction with the board, if the transaction is related to any
335 discretionary investment authority that the investment adviser
336 or manager exercises on behalf of the board.

337 (3) An investment adviser or manager certification required
338 under subsection (1) shall be provided annually, no later than
339 January 31, for the reporting period of the previous calendar
340 year on a form prescribed by the board.

341 Section 14. Section 215.52, Florida Statutes, is amended to
342 read:

343 215.52 Rules and regulations.—The board shall have the
344 power and authority to make reasonable rules, policies, and
345 regulations necessary or appropriate to carry out the provisions
346 of ss. 215.44-215.53. The rules shall provide for full
347 transparency and accountability in fulfillment of its fiduciary
348 duties in the areas of compliance, ethics, training, and audit
349 procedures.

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

352 And the title is amended as follows:

353
354 Delete line 28
355 and insert:

356
357 university or college, or local government; requiring
358 that the board establish and maintain the salaries of
359 its officers and employees in a manner consistent with
360 its fiduciary duties; requiring that the council



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361 initiate an investigation at specified intervals for
362 specified purposes; requiring that the council present
363 the results of such study to the board; authorizing
364 the board to delegate certain authority and duties to
365 the executive director; requiring that the board
366 create an audit committee for specified purposes;
367 providing for membership on the committee and term
368 limits of committee members; providing purposes and
369 duties of the committee; requiring that the board
370 produce certain financial statements on an annual
371 basis and report the information contained in such
372 statements to the Legislature; requiring that such
373 statements be audited by an independent third-party
374 firm working under the direction of the audit
375 committee; requiring that the board meet at specified
376 intervals and receive reports containing certain
377 information from specified entities; amending s.
378 215.441, F.S.; requiring that the board appoint an
379 executive director; providing duties of the executive
380 director; providing requirements for appointment as
381 executive director; removing a requirement that the
382 Governor vote in favor of the selection of the
383 executive director; providing for the determination of
384 the executive director's compensation; providing for
385 the creation, operation, and membership of a search
386 committee for the purpose of selecting the executive
387 director; amending s. 215.442, F.S.; requiring that
388 the executive director present certain information
389 quarterly to the Investment Advisory Council; amending



390 s. 215.444, F.S.; requiring that the council meet with
391 the board's staff at specified intervals and provide a
392 quarterly report to the board's trustees; clarifying
393 the function of council members; expanding
394 prerequisites for membership on the council to include
395 knowledge of and experience with institutional
396 investments and fiduciary responsibilities; providing
397 that a council member is an officer, employee, or
398 agent of the state for specified purposes; requiring
399 that appointees to the council undergo specified
400 training; requiring that council members make
401 recommendations consistent with fiduciary
402 responsibilities applicable to the board; specifying
403 duties of the council; authorizing the council to
404 create subcommittees and direct the executive director
405 to enter into certain contracts; amending s. 215.47,
406 F.S.; specifying the bonds, notes, and obligations
407 into which the trust funds of the state may be
408 invested and in what amounts; prohibiting the Board of
409 Administration from investing more than a specified
410 percentage of any trust fund in corporate obligations
411 and securities of any kind of a foreign corporation or
412 a foreign commercial entity having its principal
413 office located in any country other than the United
414 States; amending s. 215.475, F.S.; conforming
415 provisions to changes made by the act; creating s.
416 215.4754, F.S.; providing intent; requiring that the
417 contract for an investment adviser or manager include
418 a standard of conduct; providing for termination of



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419 the contract of an adviser or manager who violates the
420 standard of conduct; prohibiting a member of the
421 Investment Advisory Council from contracting with or
422 providing services for the investment of certain funds
423 during his or her service on the board and for a
424 specified period thereafter; creating s. 215.4755,
425 F.S.; requiring that an investment advisor or manager
426 annually certify to the board certain activities
427 regarding investment decisions and standards of
428 behavior; requiring that certain disclosures be made
429 at the request of the board regarding pecuniary
430 interests of an investment adviser or manager;
431 amending s. 215.52, F.S.; authorizing the board to
432 implement certain policies, restrictions, or
433 guidelines; amending