

By the Committee on Governmental Oversight and Accountability;  
and Senator Ring

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1                                   A bill to be entitled  
2           An act relating to the State Board of Administration;  
3           amending s. 121.4501, F.S.; requiring that certain  
4           investment products and approved providers conform  
5           with the Public Employee Optional Retirement Program  
6           Investment Policy Statement as approved by the  
7           executive director of the board and approved by the  
8           Investment Advisory Council; requiring that such  
9           statement be presented to the council for approval;  
10          amending s. 215.44, F.S.; requiring that the board  
11          establish and maintain the salaries of its officers  
12          and employees in a manner consistent with its  
13          fiduciary duties; requiring that the council initiate  
14          an investigation at specified intervals for specified  
15          purposes; requiring that the council present the  
16          results of such study to the board; authorizing the  
17          board to delegate certain authority and duties to the  
18          executive director; requiring that the board create an  
19          audit committee for specified purposes; providing for  
20          membership on the committee and term limits of  
21          committee members; providing purposes and duties of  
22          the committee; requiring that the board produce  
23          certain financial statements on an annual basis and  
24          report the information contained in such statements to  
25          the Legislature; requiring that such statements be  
26          audited by an independent third-party firm working  
27          under the direction of the audit committee; amending  
28          s. 215.441, F.S.; requiring that the board appoint an  
29          executive director; providing duties of the executive

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30 director; providing requirements for appointment as  
31 executive director; removing a requirement that the  
32 Governor vote in favor of the selection of the  
33 executive director; providing for the determination of  
34 the executive director's compensation; providing for  
35 the creation, operation, and membership of a search  
36 committee for the purpose of selecting the executive  
37 director; amending s. 215.442, F.S.; requiring that  
38 the executive director present certain information  
39 quarterly to the Investment Advisory Council; amending  
40 s. 215.444, F.S.; requiring that the council meet with  
41 the board's staff at specified intervals and provide a  
42 quarterly report to the board's trustees; clarifying  
43 the function of council members; expanding  
44 prerequisites for membership on the council to include  
45 knowledge of and experience with institutional  
46 investments and fiduciary responsibilities; providing  
47 that a council member is an officer, employee, or  
48 agent of the state for specified purposes; requiring  
49 that appointees to the council undergo specified  
50 training; requiring that council members make  
51 recommendations consistent with fiduciary  
52 responsibilities applicable to the board; specifying  
53 duties of the council; authorizing the council to  
54 create subcommittees and direct the executive director  
55 to enter into certain contracts; amending s. 215.475,  
56 F.S.; conforming provisions to changes made by the  
57 act; creating s. 215.4754, F.S.; providing intent;  
58 requiring that the contract for an investment adviser

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59 or manager include a standard of conduct; providing  
60 for termination of the contract of an adviser or  
61 manager who violates the standard of conduct;  
62 prohibiting a member of the Investment Advisory  
63 Council from contracting with or providing services  
64 for the investment of certain funds during his or her  
65 service on the board and for a specified period  
66 thereafter; creating s. 215.4755, F.S.; requiring that  
67 an investment advisor or manager annually certify to  
68 the board certain activities regarding investment  
69 decisions and standards of behavior; requiring that  
70 certain disclosures be made at the request of the  
71 board regarding pecuniary interests of an investment  
72 adviser or manager; amending s. 215.52, F.S.;

73 authorizing the board to implement certain policies,  
74 restrictions, or guidelines; providing an effective  
75 date.

76  
77 Be It Enacted by the Legislature of the State of Florida:

78  
79 Section 1. Subsection (14) of section 121.4501, Florida  
80 Statutes, is amended to read:

81 121.4501 Public Employee Optional Retirement Program.—

82 (14) INVESTMENT POLICY STATEMENT.—

83 (a) Investment products and approved providers selected for  
84 the Public Employee Optional Retirement Program shall conform  
85 with the Public Employee Optional Retirement Program Investment  
86 Policy Statement, herein referred to as the "statement," as  
87 developed by the executive director and approved by the

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88 Investment Advisory Council and Trustees of the State Board of  
89 Administration. The statement must include, among other items,  
90 the investment objectives of the Public Employee Optional  
91 Retirement Program, manager selection and monitoring guidelines,  
92 and performance measurement criteria. As required from time to  
93 time, the executive director of the state board may present  
94 recommended changes in the statement to the board for approval.

95 (b) Before ~~Prior to~~ presenting the statement, or any  
96 recommended changes thereto, to the state board, the executive  
97 director of the board shall present such statement or changes to  
98 the Investment Advisory Council for review and approval. The  
99 council shall present the results of its review to the board  
100 prior to the board's final approval of the statement or changes  
101 in the statement.

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

104 215.44 Board of Administration; powers and duties in  
105 relation to investment of trust funds.—

106 (1) Except when otherwise specifically provided by the  
107 State Constitution and subject to any limitations of the trust  
108 agreement relating to a trust fund, the Board of Administration,  
109 hereinafter sometimes referred to as "trustees" or "board,"  
110 composed of the Governor as chair, the Chief Financial Officer,  
111 and the Attorney General, shall invest all the funds in the  
112 System Trust Fund, as defined in s. 121.021(36), and all other  
113 funds specifically required by law to be invested by the board  
114 pursuant to ss. 215.44-215.53 to the fullest extent that is  
115 consistent with the cash requirements, trust agreement, and  
116 investment objectives of the fund. Notwithstanding any other law

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117 to the contrary, the State Board of Administration may invest  
118 any funds of any state agency or any unit of local government  
119 pursuant to the terms of a trust agreement with the head of the  
120 state agency or the governing body of the unit of local  
121 government, which trust agreement shall govern the investment of  
122 such funds, provided that the board shall approve the  
123 undertaking of such investment before execution of the trust  
124 agreement by the State Board of Administration. The funds and  
125 the earnings therefrom are exempt from the service charge  
126 imposed by s. 215.20. As used in this subsection, the term  
127 "state agency" has the same meaning as that provided in s.  
128 216.001, and the terms "governing body" and "unit of local  
129 government" have the same meaning as that provided in s.  
130 218.403.

131 (2) (a) The board shall have the power to make purchases,  
132 sales, exchanges, investments, and reinvestments for and on  
133 behalf of the funds referred to in subsection (1), and it shall  
134 be the duty of the board to see that moneys invested under the  
135 provisions of ss. 215.44-215.53 are at all times handled in the  
136 best interests of the state.

137 (b) Pursuant to s. 110.205, the State Board of  
138 Administration shall establish and maintain the salaries and  
139 benefits of its officers and employees in a manner consistent  
140 with the board's fiduciary responsibility to recruit and retain  
141 highly qualified and effective key personnel. Not less than  
142 every 5 years, the Investment Advisory Council shall cause a  
143 total compensation study to be conducted by a private consulting  
144 firm having expertise in institutional investments salary and  
145 benefit administration. The study shall be designed to determine

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146 competitive salary ranges, other compensation, and benefits for  
147 positions within the board based on comparable public-sector  
148 peer investment entities. The Investment Advisory Council shall  
149 present the total compensation study along with its  
150 recommendations to the board, and such recommendations are  
151 subject to review and ratification or reversal by the board. The  
152 board may delegate to the executive director the authority and  
153 duty to set staff salaries within the ranges approved by the  
154 board.

155 (c) ~~(b)~~ In exercising investment authority pursuant to s.  
156 215.47, the board may retain investment advisers or managers, or  
157 both, external to in-house staff, to assist the board in  
158 carrying out the power specified in paragraph (a).

159 (d) The board shall create an audit committee to assist the  
160 board in fulfilling its oversight responsibilities. The  
161 committee shall consist of three members appointed by the board.  
162 Members shall be appointed for 4-year terms. A vacancy shall be  
163 filled for the remainder of the unexpired term. The committee  
164 shall annually elect a chair and vice chair from its membership.  
165 A member may not be elected to consecutive terms as chair or  
166 vice chair. Persons appointed to the audit committee must have  
167 relevant knowledge and expertise as determined by the board. The  
168 audit committee shall serve as an independent and objective  
169 party to monitor processes for financial reporting, internal  
170 controls and risk assessment, audit processes, and compliance  
171 with laws, rules, and regulations. The audit committee shall  
172 direct the efforts of the board's independent external auditors  
173 and the board's internal audit staff. The committee shall  
174 periodically, but no less than quarterly, report to the

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175 executive director and the board. The board shall produce a set  
176 of financial statements for the Florida Retirement System  
177 programs on an annual basis, which shall be reported to the  
178 Legislature and audited by a commercial independent third-party  
179 audit firm under the direction of the audit committee.

180 Section 3. Section 215.441, Florida Statutes, is amended to  
181 read:

182 215.441 Board of Administration; appointment of executive  
183 director.—

184 (1) The board shall appoint an executive director to manage  
185 and invest funds as directed by the board. The executive  
186 director shall, at a minimum, possess substantial experience,  
187 proven knowledge, and expertise in the oversight of  
188 institutional investment portfolios and must meet any other  
189 requirements determined by the board to be necessary to the  
190 overall management and investment of funds.

191 (2) The appointment of the executive director of the State  
192 Board of Administration shall be subject to the approval by a  
193 majority vote of the Board of Trustees of the State Board of  
194 Administration, and the Governor must vote on the prevailing  
195 side. Such appointment must be reaffirmed in the same manner by  
196 the board of trustees on an annual basis.

197 (3) The compensation for the executive director shall be  
198 determined by the board, consistent with the requirements of s.  
199 215.44(2)(b).

200 (4) Before the appointment of the executive director, the  
201 board shall appoint a search committee to develop minimum  
202 position requirements, review applications, and make  
203 recommendations to the board with regard to qualified applicants

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204 for the position. At a minimum, the search committee shall  
205 consist of at least three members of the Investment Advisory  
206 Council.

207 Section 4. Subsection (1) of section 215.442, Florida  
208 Statutes, is amended to read:

209 215.442 Executive director; reporting requirements; public  
210 meeting.—

211 (1) Beginning October 2007 and quarterly thereafter, the  
212 executive director shall present to the Board of Trustees and  
213 the Investment Advisory Council of the State Board of  
214 Administration a quarterly report to include the following:

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

217 (b) The industry category of each equity.

218 Section 5. Section 215.444, Florida Statutes, is amended to  
219 read:

220 215.444 Investment Advisory Council.—

221 (1) There is created a six-member Investment Advisory  
222 Council to review the investments made by the staff of the Board  
223 of Administration and to make recommendations to the board  
224 regarding investment policy, strategy, and procedures. The  
225 council shall meet with staff of the board no less than  
226 quarterly and shall provide a quarterly report directly to the  
227 trustees at a meeting of the board.

228 (2) The members of the council shall be appointed by the  
229 board as a resource to the trustees and shall be subject to  
230 confirmation by the Senate. These individuals shall possess  
231 special knowledge, experience, and familiarity with ~~financial~~  
232 ~~investments and portfolio management,~~ institutional investments,



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233 and fiduciary responsibilities. Members shall be appointed for  
234 4-year terms. A vacancy shall be filled for the remainder of the  
235 unexpired term. The council shall annually elect a chair and a  
236 vice chair from its membership. A member may not be elected to  
237 consecutive terms as chair or vice chair.

238 (3) In carrying out the provisions of this section, a  
239 member of the council is an officer, employee, or agent of the  
240 state for purposes of the state's waiver of sovereign immunity  
241 contained in s. 768.28. Appointees to the council must undergo  
242 regular fiduciary training as required by the board, and must  
243 complete an annual conflict disclosure statement. In carrying  
244 out their duties, council members must make recommendations  
245 consistent with the fiduciary standards applicable to the board.

246 (4) The duties of the council shall include approval of the  
247 investment policy statements of the board, participation in the  
248 selection process regarding an executive director, engaging  
249 periodic compensation studies and providing recommendations  
250 thereon, meeting quarterly to review the investment performance  
251 of funds, and any other duties as determined by the board. The  
252 council may create subcommittees as necessary to carry out its  
253 duties and responsibilities and may direct the executive  
254 director to enter into contracts with independent compensation  
255 consultants.

256 Section 6. Subsection (1) of section 215.475, Florida  
257 Statutes, is amended to read:

258 215.475 Investment policy statement.—

259 (1) In making investments for the System Trust Fund  
260 pursuant to ss. 215.44-215.53, the board shall make no  
261 investment which is not in conformance with the Florida

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262 Retirement System Defined Benefit Plan Investment Policy  
263 Statement, hereinafter referred to as "the IPS," as developed by  
264 the executive director and approved by the Investment Advisory  
265 Council and the board. The IPS must include, among other items,  
266 the investment objectives of the System Trust Fund; permitted  
267 types of securities in which the board may invest; and  
268 evaluation criteria necessary to measure the investment  
269 performance of the fund. As required from time to time, the  
270 executive director of the board may present recommended changes  
271 in the IPS to the Investment Advisory Council and the board for  
272 approval.

273 Section 7. Section 215.4754, Florida Statutes, is created  
274 to read:

275 215.4754 Ethics requirements for investment advisers and  
276 managers and members of the Investment Advisory Council.—The  
277 intent of this section is to promote independence and the  
278 avoidance of conflicts and improper influence by certain  
279 investment advisers and managers without creating unnecessary  
280 barriers to the board performing its investment duties  
281 consistent with its fiduciary standards, investment performance,  
282 and business relationships.

283 (1) A contract under which an investment adviser or manager  
284 has been retained to exercise investment authority on behalf of  
285 the board for direct holdings, as defined in s. 215.473(1)(e),  
286 shall require that the investment adviser or manager abide by a  
287 standard of conduct, and any such contract may be terminated by  
288 the board if the investment adviser or manager violates such  
289 standard of conduct.

290 (2) An Investment Advisory Council member or any business

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291 organization or any affiliate thereof which is owned by or  
292 employs such member may not directly or indirectly contract with  
293 or provide any services for the investment of trust funds  
294 invested by the board during the time of such member's service  
295 on the council or for 2 years thereafter.

296 Section 8. Section 215.4755, Florida Statutes, is created  
297 to read:

298 215.4755 Certification and disclosure requirements for  
299 investment advisers and managers.—

300 (1) An investment adviser or manager who has discretionary  
301 investment authority for direct holdings, as defined in s.  
302 215.473(1)(e), and who is retained as provided in s.  
303 215.44(2)(c) shall agree pursuant to contract to annually  
304 certify in writing to the board that:

305 (a) All investment decisions made on behalf of the trust  
306 funds and the board are made in the best interests of the trust  
307 funds and the board, and not made in a manner to the advantage  
308 of such investment adviser or manager, other persons, or clients  
309 to the detriment of the trust funds and the board.

310 (b) Appropriate policies, procedures, or other safeguards  
311 have been adopted and implemented to ensure that relationships  
312 with any affiliated persons or entities do not adversely  
313 influence the investment decisions made on behalf of the trust  
314 funds and the board.

315 (c) A written code of ethics, conduct, or other set of  
316 standards, which governs the professional behavior and  
317 expectations of owners, general partners, directors or managers,  
318 officers, and employees of the investment adviser or manager,  
319 has been adopted and implemented and is effectively monitored

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320 and enforced. The investment advisers' and managers' code of  
321 ethics shall require that:

322 1. Officers and employees involved in the investment  
323 process shall refrain from personal business activity that could  
324 conflict with the proper execution and management of the  
325 investment program over which the investment adviser or manager  
326 has discretionary investment authority or that could impair  
327 their ability to make impartial decisions with respect to such  
328 investment program; and

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

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

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

340 2. Any personal financial or investment positions of the  
341 investment advisor or manager which could be related to the  
342 performance of an investment program over which the investment  
343 adviser or manager has discretionary investment authority on  
344 behalf of the board.

345 (2) At the board's request, an investment adviser or  
346 manager who has discretionary investment authority over direct  
347 holdings, as defined in s. 215.473(1)(e), and who is retained as  
348 provided in s. 215.44(2)(c) shall disclose in writing to the

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349 board:

350 (a) Any nonconfidential, nonproprietary information or  
351 reports to substantiate the certifications required under  
352 subsection (1).

353 (b) All direct or indirect pecuniary interests that the  
354 investment adviser or manager has in or with any party to a  
355 transaction with the board, if the transaction is related to any  
356 discretionary investment authority that the investment adviser  
357 or manager exercises on behalf of the board.

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

362 Section 9. Section 215.52, Florida Statutes, is amended to  
363 read:

364 215.52 Rules and regulations.—The board shall have the  
365 power and authority to make reasonable rules, policies, and  
366 regulations necessary or appropriate to carry out the provisions  
367 of ss. 215.44-215.53. To ensure full transparency and  
368 accountability in fulfillment of its fiduciary duties, the board  
369 may implement any policies, restrictions, or guidelines  
370 necessary to the application of relevant provisions, including,  
371 but not limited to, policy in the areas of compliance, ethics,  
372 training, audit procedures, service providers, vendors, and  
373 third parties who do business with the board.

374 Section 10. This act shall take effect July 1, 2010.