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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/05/2011	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 18 - 59
and insert:

Section 1. Subsections (1), (2) and (3) 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 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,
sometimes referred to in this chapter as "board" or "Trustees of



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13 the State Board of Administration," composed of the Governor as
14 chair, the Chief Financial Officer, and the Attorney General,
15 shall invest all the funds in the System Trust Fund, as defined
16 in s. 121.021(36), and all other funds specifically required by
17 law to be invested by the board pursuant to ss. 215.44-215.53 to
18 the fullest extent that is consistent with the cash
19 requirements, trust agreement, and investment objectives of the
20 fund. Notwithstanding any other law to the contrary, the State
21 Board of Administration may invest any funds of any state
22 agency, any state university or college, any unit of local
23 government, or any direct-support organization thereof pursuant
24 to the terms of a trust agreement with the head of the state
25 agency or the governing body of the state university or college,
26 unit of local government, or direct-support organization
27 thereof, ~~or pursuant to the enrollment requirements stated in s.~~
28 ~~218.407,~~ and may invest such funds in the Local Government
29 Surplus Funds Trust Fund created by s. 218.405, without a trust
30 agreement, upon completion of enrollment materials provided by
31 the board. The board shall approve the undertaking of
32 investments subject to a trust agreement before execution of
33 such trust agreement by the State Board of Administration. The
34 funds and the earnings therefrom are exempt from the service
35 charge imposed by s. 215.20. As used in this subsection, the
36 term "state agency" has the same meaning as that provided in s.
37 216.011, and the terms "governing body" and "unit of local
38 government" have the same meaning as that provided in s.
39 218.403.

40 (2) (a) The board shall have the power to make purchases,
41 sales, exchanges, investments, and reinvestments for and on



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

46 (b) In exercising investment authority pursuant to s.
47 215.47, the board may retain investment advisers or managers, or
48 both, external to in-house staff, to assist the board in
49 carrying out the power specified in paragraph (a).

50 (c) The board shall create an audit committee to assist the
51 board in fulfilling its oversight responsibilities. The
52 committee shall consist of three members appointed by the board.
53 Members shall be appointed for 4-year terms. A vacancy shall be
54 filled for the remainder of the unexpired term. The committee
55 shall annually elect a chair and vice chair from its membership.
56 A member may not be elected to consecutive terms as chair or
57 vice chair. Persons appointed to the audit committee must have
58 relevant knowledge and expertise as determined by the board. The
59 audit committee shall serve as an independent and objective
60 party to monitor processes for financial reporting, internal
61 controls and risk assessment, audit processes, and compliance
62 with laws, rules, and regulations. The audit committee shall
63 direct the efforts of the board's independent external auditors
64 and the board's internal audit staff. The committee shall
65 periodically, but at least ~~not less than~~ quarterly, report to
66 the board and the executive director of the board.

67 (d) The board shall produce a set of financial statements
68 for the Florida Retirement System on an annual basis, which
69 shall be reported to the Legislature and audited by a commercial
70 independent third-party audit firm under the direction of the



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71 audit committee.

72 (e) Pursuant to s. 110.205, the board shall establish and
73 maintain the salaries and benefits of its officers and employees
74 in a manner consistent with the board's fiduciary responsibility
75 to recruit and retain highly qualified and effective key
76 personnel. At least every 5 years, the Investment Advisory
77 Council shall cause a total compensation study to be conducted
78 by a private consulting firm having expertise in salary and
79 benefits administration of institutional investment entities.
80 The study shall be designed to determine competitive salary
81 ranges, other compensation, and benefits for positions within
82 the board based on comparable public-sector peer investment
83 entities. The council shall present the total compensation
84 study, along with its recommendations, to the board. The
85 recommendations are subject to review and ratification or
86 reversal by the board. The board may delegate to the executive
87 director the authority and duty to set staff salaries within the
88 ranges approved by the board.

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

95 (3) Notwithstanding any law to the contrary, all
96 investments made by the State Board of Administration pursuant
97 to ss. 215.44-215.53 shall be subject to the restrictions and
98 limitations contained in s. 215.47, except that investments made
99 by the board under a trust agreement pursuant to subsection (1)



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100 are subject only to the restrictions and limitations contained
101 in that trust agreement.

102 Section 2. Section 215.441, Florida Statutes, is amended to
103 read:

104 215.441 Board of Administration; appointment of executive
105 director.—The appointment of the executive director of the State
106 Board of Administration is shall be subject to the approval by a
107 majority vote of the Board of Trustees of the State Board of
108 Administration, and the Governor must vote on the prevailing
109 side. Such appointment must be reaffirmed in the same manner by
110 the board of trustees on an annual basis.

111 (1) Before appointing the executive director, the board
112 shall appoint a search committee to develop minimum position
113 requirements, review applications, and make recommendations to
114 the board with regard to qualified applicants for the position.
115 At a minimum, the search committee shall consist of at least
116 three members of the Investment Advisory Council.

117 (2) The executive director shall, at a minimum, possess
118 substantial experience, knowledge, and expertise in the
119 oversight of investment portfolios and must meet any other
120 requirements determined by the board to be necessary to the
121 overall management and investment of funds.

122 (3) The compensation for the executive director shall be
123 determined by the board, consistent with s. 215.44(2)(d).

124 Section 3. 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 4. Section 215.444, Florida Statutes, is amended to
136 read:

137 215.444 Investment Advisory Council.—

138 (1) ~~There is created~~ A five-member ~~six-member~~ Investment
139 Advisory Council is created to review the investments made by
140 the staff of the Board of Administration and to make
141 recommendations to the board regarding investment policy,
142 strategy, and procedures.

143 (2) Beginning February 1, 2011, the membership of the
144 council shall be expanded to nine members. Beginning July 1,
145 2011, board membership shall be reduced by not refilling board
146 positions as the terms of the members expire until board
147 membership consists of five members. Thereafter, three of those
148 members shall be appointed by the Governor, one member shall be
149 appointed by the Chief Financial Officer, and one member shall
150 be appointed by the Attorney General. Members shall be appointed
151 for 4-year terms. A vacancy shall be filled for the remainder of
152 the unexpired term. The council shall annually elect a chair and
153 a vice chair from its membership. A member may not be elected to
154 consecutive terms as chair or vice chair. ~~The council shall meet~~
155 ~~with staff of the board at least once each quarter and shall~~
156 ~~provide a quarterly report directly to the Board of Trustees of~~
157 ~~the State Board of Administration at a meeting of the board.~~



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158 ~~(2) The members of the council shall be appointed by the~~
159 ~~board as a resource to the Board of Trustees of the State Board~~
160 ~~of Administration and shall be subject to confirmation by the~~
161 ~~Senate.~~

162 (3) In order to be appointed, an individual must ~~These~~
163 ~~individuals shall~~ possess special knowledge, experience, and
164 familiarity with portfolio management, institutional
165 investments, and fiduciary responsibilities, have been in a
166 position that oversaw \$1 billion in assets, and may have had
167 extensive experience in managing or overseeing investment
168 portfolios or conducting research in any two or more of the
169 following areas: domestic equities, international equities,
170 fixed-income securities, cash management, marketable and
171 nonmarketable alternative investments, or real estate. ~~Members~~
172 ~~shall be appointed for 4-year terms. A vacancy shall be filled~~
173 ~~for the remainder of the unexpired term. The council shall~~
174 ~~annually elect a chair and a vice chair from its membership. A~~
175 ~~member may not be elected to consecutive terms as chair or vice~~
176 ~~chair.~~

177 (4)~~(3)~~ The council members must undergo regular fiduciary
178 training as required by the board and must complete an annual
179 conflict disclosure statement. In carrying out their duties,
180 council members must make recommendations consistent with the
181 fiduciary standards applicable to the board.

182 (5) In addition to the duties in subsection (1), the
183 council shall approve the investment policy statements of the
184 board, participate in the selection process regarding an
185 executive director, obtain periodic compensation studies and
186 provide recommendations thereon, meet quarterly to review the



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187 investment performance of funds, and perform any other duties as
188 determined by the board. The council shall meet with board staff
189 at least once each quarter and provide a quarterly report
190 directly to the Board of Administration at a meeting of the
191 board.

192 (6)~~(4)~~ The council may create subcommittees as necessary to
193 carry out its duties and responsibilities and may direct the
194 executive director to enter into contracts with independent
195 compensation consultants.

196 (7) In carrying out the provisions of this subsection, a
197 member of the council is an officer, employee, or agent of the
198 state for purposes of the state's waiver of sovereign immunity
199 as provided in s. 768.28.

200
201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete lines 3 - 10

204 and insert:

205 amending s. 215.44, F.S.; authorizing the board to
206 invest the assets of a governmental entity in the
207 Local Government Surplus Funds Trust Fund without a
208 trust agreement with that governmental entity;
209 requiring the board to establish and maintain the
210 salaries of its officers and employees in a manner
211 consistent with its fiduciary duties; requiring that
212 the Investment Advisory Council initiate a study at
213 specified intervals to evaluate compensation;
214 requiring that the council present the results of such
215 study to the board; authorizing the board to delegate



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216 certain authority and duties relating to salaries to
217 the executive director; revising the entities that
218 submit reports to the board; providing that certain
219 investments made by the board under a trust agreement
220 are subject only to the restrictions and limitations
221 contained in the trust agreement; amending s. 215.441,
222 F.S.; providing for the creation, operation, and
223 membership of a search committee for the purpose of
224 selecting the executive director; providing
225 requirements for the appointment as executive
226 director; providing for the determination of the
227 executive director's compensation; amending s.
228 215.442, F.S.; requiring that the executive director
229 present certain information quarterly to the
230 Investment Advisory Council; amending s. 215.444,
231 F.S.; reducing the number of council members and
232 providing for the appointment of such members;
233 expanding prerequisites for membership on the council;
234 providing additional duties of the council;
235 authorizing the council to create subcommittees and
236 direct the executive director to enter into certain
237 contracts; providing that a council member is an
238 officer, employee, or agent of the state for the
239 purpose of sovereign immunity; amending s. 215.4755,
240 F.S.; correcting