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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/05/2011	.	
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The Committee on Governmental Oversight and Accountability  
(Latvala) 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 Committee  
77 shall cause a total compensation study to be conducted by a  
78 private consulting firm having expertise in salary and benefits  
79 administration of institutional investment entities. The study  
80 shall be designed to determine competitive salary ranges, other  
81 compensation, and benefits for positions within the board based  
82 on comparable public-sector peer investment entities. The  
83 committee shall present the total compensation study, along with  
84 its recommendations, to the board. The recommendations are  
85 subject to review and ratification or reversal by the board. The  
86 board may delegate to the executive director the authority and  
87 duty to set staff salaries within the ranges approved by the  
88 board.

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

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 Committee of the State Board of Administration a  
131 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 Committee ~~Advisory Council~~.—

138 (1) ~~There is created~~ A seven-member ~~six-member~~ Investment  
139 Committee ~~Advisory Council~~ is created to review the investments  
140 made by 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 committee ~~council~~ shall be expanded to nine members. Beginning  
145 July 1, 2011, board membership shall be reduced by not refilling  
146 board positions as the terms of the members expire until board  
147 membership consists of seven members. Thereafter, each trustee  
148 shall appoint one member and one member shall be appointed by a  
149 unanimous vote of the trustees. Members shall be appointed for  
150 4-year terms. A vacancy shall be filled for the remainder of the  
151 unexpired term. The committee shall annually elect a chair and a  
152 vice chair from its membership. A member may not be elected to  
153 consecutive terms as chair or vice chair. ~~The council shall meet~~  
154 ~~with staff of the board at least once each quarter and shall~~  
155 ~~provide a quarterly report directly to the Board of Trustees of~~  
156 ~~the State Board of Administration at a meeting of the board.~~

157 (2) ~~The members of the council shall be appointed by the~~



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158 ~~board as a resource to the Board of Trustees of the State Board~~  
159 ~~of Administration and shall be subject to confirmation by the~~  
160 ~~Senate.~~

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

176 (4) ~~(3)~~ ~~The~~ committee council ~~members~~ must undergo regular  
177 fiduciary training as required by the board and must complete an  
178 annual conflict disclosure statement. In carrying out their  
179 duties, ~~council~~ members must make recommendations consistent  
180 with the fiduciary standards applicable to the board.

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



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187 determined by the board. The committee shall meet with board  
188 staff at least once each quarter and provide a quarterly report  
189 directly to the board at a meeting of the board.

190 (6) The committee shall approve the investment policy  
191 statements of the board as provided in ss. 215.475,  
192 121.4501(14), 215.5601(4)(a), and 218.409(2)(d), participate in  
193 the selection process regarding an executive director, obtain  
194 periodic compensation studies and provide recommendations  
195 thereon, meet at least quarterly to review the investment  
196 performance of funds, and perform any other duties as determined  
197 by the board. Decisions of the committee may be overturned only  
198 by a unanimous vote of the board. The committee shall meet with  
199 board staff at least once each quarter and provide a quarterly  
200 report directly to the board at a meeting of the board.

201 (7)~~(4)~~ The committee ~~council~~ may create subcommittees as  
202 necessary to carry out its duties and responsibilities and may  
203 direct the executive director to enter into contracts with  
204 independent compensation consultants.

205 (8) In carrying out the provisions of this subsection, a  
206 member of the committee is an officer, employee, or agent of the  
207 state for purposes of the state's waiver of sovereign immunity  
208 as provided in s. 768.28.

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

211 And the title is amended as follows:

212 Delete lines 3 - 10

213 and insert:

214 amending s. 215.44, F.S.; authorizing the board to  
215 invest the assets of a governmental entity in the





216 Local Government Surplus Funds Trust Fund without a  
217 trust agreement with that governmental entity;  
218 requiring the board to establish and maintain the  
219 salaries of its officers and employees in a manner  
220 consistent with its fiduciary duties; requiring that  
221 the Investment Committee initiate a study at specified  
222 intervals to evaluate compensation; requiring that the  
223 committee present the results of such study to the  
224 board; authorizing the board to delegate certain  
225 authority and duties relating to salaries to the  
226 executive director; revising the entities that submit  
227 reports to the board; providing that certain  
228 investments made by the board under a trust agreement  
229 are subject only to the restrictions and limitations  
230 contained in the trust agreement; amending s. 215.441,  
231 F.S.; providing for the creation, operation, and  
232 membership of a search committee for the purpose of  
233 selecting the executive director; providing  
234 requirements for the appointment as executive  
235 director; providing for the determination of the  
236 executive director's compensation; amending s.  
237 215.442, F.S.; requiring that the executive director  
238 present certain information quarterly to the  
239 Investment Committee; amending s. 215.444, F.S.;

240 reducing the number of committee members and providing  
241 for the appointment of such members; expanding  
242 prerequisites for membership on the committee;  
243 providing additional duties of the committee;  
244 authorizing the committee to create subcommittees and



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245       direct the executive director to enter into certain  
246       contracts; providing that a committee member is an  
247       officer, employee, or agent of the state for the  
248       purpose of sovereign immunity; amending s. 215.4755,  
249       F.S.; correcting