

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 1182

INTRODUCER: Budget Committee and Senator Ring

SUBJECT: State Board of Administration

DATE: April 26, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>Roberts</u>	<u>GO</u>	<b>Fav/1 amendment</b>
2.	<u>Leadbeater</u>	<u>Meyer, C.</u>	<u>BC</u>	<b>Fav/CS</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

<b>Please see Section VIII. for Additional Information:</b>	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

**I. Summary:**

The bill amends s. 215.44(1), F.S., to specify that the State Board of Administration does not need a trust agreement with a governmental entity to invest their assets in the Local Government Surplus Funds Trust Fund; these entities will instead be required to complete enrollment materials provided by the board. The bill clarifies that any investments done through a trust agreement are not restricted by the list of authorized investments. The bill provides that the membership of the Investment Advisory Council will be reduced from nine to six members, by not refilling positions as the terms of members expire. The bill also corrects cross references, and changes terminology used in certification and disclosure provisions.

This bill amends the following sections of the Florida Statutes: 215.44, 215.444, and 215.4755.

## II. Present Situation:

### The State Board of Administration

The State Board of Administration (SBA) is comprised of the Governor, Chief Financial Officer and Attorney General.<sup>1</sup> The SBA manages thirty-six separate statutory investment portfolios, the largest one of which is the multi-employer Florida Retirement System. The SBA must invest and reinvest available funds of the System Trust Fund in accordance with the specified statutory provisions.<sup>2</sup> The System Trust Fund is the trust fund established by statute in the State Treasury for the purpose of holding and investing the contributions paid by members and employers and paying the benefits to which members or their beneficiaries may become entitled.<sup>3</sup> Other trust funds may be established in the State Treasury to administer the System Trust Fund. In making investments for the System Trust Fund the board may not make any investments not in conformance with the Florida Retirement System Defined Benefit Plan Investment Policy Statement.<sup>4</sup>

The SBA also manages investments on behalf of the Hurricane Catastrophe Fund, the Florida Lottery, the Pre-Paid College Fund, its own separately constituted Division of Bond Finance, and pooled money market funds for local governments (Florida Prime), among others. Assets under management as of November 30, 2010, totaled \$145.6 billion.

The Trustees and agency investment personnel are named fiduciaries for the management of funds under their control. As such, they must adhere to the duties of prudence, loyalty, sole and exclusive benefit in the discharge of their responsibilities. The SBA also houses a statutory Investment Advisory Council whose purpose is to provide the staff and Trustees with non-fiduciary advice on trends and conditions in the institutional investment marketplace. The SBA participates with its peer plans in a number of institutional investor organizations on matters affecting national and international finance.

Section 215.47, F.S., specifies the types of investments authorized for use by the SBA. Section 215.477, F.S., specifying the certification and disclosure requirements for investment advisors and managers, was created by House Bill 1307 in the 2010 Regular Session.<sup>5</sup>

### Investment Advisory Council

Section 215.444, F.S., creates an Investment Advisory Council to review the investments made by the staff of the Board of Administration and to make recommendations to the board regarding investment policy, strategy, and procedures. The number of members on the council was expanded from six to nine by the 2010 Legislature,<sup>6</sup> beginning February 1, 2011. The council

---

<sup>1</sup> Section 16, art. IX, Constitution of 1885, and continued by s. 9, art. IX, State Constitution, as revised in 1968 and subsequently amended.

<sup>2</sup> Section 121.151, F.S.

<sup>3</sup> Section 121.021(36), F.S.

<sup>4</sup> Section 215.475(1), F.S.

<sup>5</sup> Section 11 of Ch. 2010-180, L.O.F.

<sup>6</sup> Section 8 of Ch. 2010-180, L.O.F.

must meet with staff of the board at least once each quarter and must provide a quarterly report directly to the Board of Trustees of the State Board of Administration at a meeting of the board.

The members of the council must be appointed by the board as a resource to the Board of Trustees of the SBA and are subject to confirmation by the Senate. These individuals must possess special knowledge, experience, and familiarity with portfolio management, institutional investments, and fiduciary responsibilities. Members must be appointed for 4-year terms. A vacancy must be filled for the remainder of the unexpired term. The council must annually elect a chair and a vice chair from its membership, and a member may not be elected to consecutive terms as chair or vice chair. The council members must undergo regular fiduciary training as required by the board and must complete an annual conflict disclosure statement. In carrying out their duties, council members must make recommendations consistent with the fiduciary standards applicable to the board. The council may create subcommittees as necessary to carry out its duties and responsibilities.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 215.44(1), F.S., to specify that the State Board of Administration does not need a trust agreement with a governmental entity to invest their assets in the Local Government Surplus Funds Trust Fund created in s. 218.405, F.S. These entities will be required to complete enrollment materials provided by the board, which simplifies the investment process. The bill also amends subsection (3) to clarify that any investments done through a trust agreement are not restricted by the list provided in s. 215.47, F.S.

**Section 2** amends s. 215.444, F.S., to provide that the membership of the Investment Advisory Council will be reduced from nine to six members, by not refilling positions as the terms of members expire.

**Section 3** amends s. 215.4755, F.S., to correct cross-references, replace the word “individual” with “employee at a broker-dealer firm,” and deletes “perceived” from the types of conflicts of interest that must be disclosed, leaving “actual or potential” conflicts.

The bill takes effect July 1, 2011.

### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As of April 26, 2011, the council has seven members, three of which have not yet been confirmed by the Senate, and the Governor has two appointments to make.

**VIII. Additional Information:**A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Budget on April 25, 2011:**

The committee substitute provides that the membership of the Investment Advisory Council will be reduced from nine to six members, by not refilling positions as the terms of members expire.

## B. Amendments:

None.