

By Senator Ring

32-01234-11

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1 A bill to be entitled
2 An act relating to the State Board of Administration;
3 amending s. 215.44, F.S.; authorizing the board to
4 invest the assets of a governmental entity in the
5 Local Government Surplus Funds Trust Fund without a
6 trust agreement with that governmental entity;
7 providing that certain investments made by the board
8 under a trust agreement are subject only to the
9 restrictions and limitations contained in the trust
10 agreement; amending s. 215.4755, F.S.; correcting
11 cross-references; clarifying provisions prohibiting
12 certain conflicts of interest by investment advisers
13 and managers retained by the board; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsections (1) and (3) of section 215.44,
19 Florida Statutes, are amended to read:

20 215.44 Board of Administration; powers and duties in
21 relation to investment of trust funds.—

22 (1) Except when otherwise specifically provided by the
23 State Constitution and subject to any limitations of the trust
24 agreement relating to a trust fund, the Board of Administration,
25 sometimes referred to in this chapter as "board" or "Trustees of
26 the State Board of Administration," composed of the Governor as
27 chair, the Chief Financial Officer, and the Attorney General,
28 shall invest all the funds in the System Trust Fund, as defined
29 in s. 121.021(36), and all other funds specifically required by

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30 law to be invested by the board pursuant to ss. 215.44-215.53 to
31 the fullest extent that is consistent with the cash
32 requirements, trust agreement, and investment objectives of the
33 fund. Notwithstanding any other law to the contrary, the State
34 Board of Administration may invest any funds of any state
35 agency, any state university or college, any unit of local
36 government, or any direct-support organization thereof pursuant
37 to the terms of a trust agreement with the head of the state
38 agency or the governing body of the state university or college,
39 unit of local government, or direct-support organization
40 thereof, ~~or pursuant to the enrollment requirements stated in s.~~
41 ~~218.407,~~ and may invest such funds in the Local Government
42 Surplus Funds Trust Fund created by s. 218.405, without a trust
43 agreement, upon completion of enrollment materials provided by
44 the board. The board shall approve the undertaking of
45 investments subject to a trust agreement before execution of
46 such trust agreement by the State Board of Administration. The
47 funds and the earnings therefrom are exempt from the service
48 charge imposed by s. 215.20. As used in this subsection, the
49 term "state agency" has the same meaning as that provided in s.
50 216.011, and the terms "governing body" and "unit of local
51 government" have the same meaning as that provided in s.
52 218.403.

53 (3) Notwithstanding any law to the contrary, all
54 investments made by the State Board of Administration pursuant
55 to ss. 215.44-215.53 shall be subject to the restrictions and
56 limitations contained in s. 215.47, except that investments made
57 by the board under a trust agreement pursuant to subsection (1)
58 are subject only to the restrictions and limitations contained

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59 in that trust agreement.

60 Section 2. Subsections (1) and (2) of section 215.4755,
61 Florida Statutes, are amended to read:

62 215.4755 Certification and disclosure requirements for
63 investment advisers and managers.—

64 (1) An investment adviser or manager who has discretionary
65 investment authority for direct holdings and who is retained as
66 provided in s. 215.44(2)(b) ~~215.44(2)(c)~~ shall agree pursuant to
67 contract to annually certify in writing to the board that:

68 (a) All investment decisions made on behalf of the trust
69 funds and the board are made in the best interests of the trust
70 funds and the board and not made in a manner to the advantage of
71 such investment adviser or manager, other persons, or clients to
72 the detriment of the trust funds and the board.

73 (b) Appropriate policies, procedures, or other safeguards
74 have been adopted and implemented to ensure that relationships
75 with any affiliated persons or entities do not adversely
76 influence the investment decisions made on behalf of the trust
77 funds and the board.

78 (c) A written code of ethics, conduct, or other set of
79 standards, which governs the professional behavior and
80 expectations of owners, general partners, directors or managers,
81 officers, and employees of the investment adviser or manager,
82 has been adopted and implemented and is effectively monitored
83 and enforced. The investment advisers' and managers' code of
84 ethics shall require that:

85 1. Officers and employees involved in the investment
86 process refrain from personal business activity that could
87 conflict with the proper execution and management of the

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88 investment program over which the investment adviser or manager
89 has discretionary investment authority or that could impair
90 their ability to make impartial decisions with respect to such
91 investment program; and

92 2. Officers and employees refrain from undertaking personal
93 investment transactions with the same employee at a broker-
94 dealer firm ~~individual~~ with whom business is conducted on behalf
95 of the board.

96 (d) The investment adviser or manager has proactively and
97 promptly disclosed to the board, notwithstanding subsection (2),
98 any known circumstances or situations that a prudent person
99 could expect to create an actual or, ~~potential, or perceived~~
100 conflict of interest, including specifically:

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

104 2. Any personal financial or investment positions of the
105 investment adviser or manager that could be related to the
106 performance of an investment program over which the investment
107 adviser or manager has discretionary investment authority on
108 behalf of the board.

109 (2) At the board's request, an investment adviser or
110 manager who has discretionary investment authority over direct
111 holdings and who is retained as provided in s. 215.44(2)(b)
112 ~~215.44(2)(c)~~ shall disclose in writing to the board:

113 (a) Any nonconfidential, nonproprietary information or
114 reports to substantiate the certifications required under
115 subsection (1).

116 (b) All direct or indirect pecuniary interests that the

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117 investment adviser or manager has in or with any party to a
118 transaction with the board, if the transaction is related to any
119 discretionary investment authority that the investment adviser
120 or manager exercises on behalf of the board.

121 Section 3. This act shall take effect July 1, 2011.