

By the Committee on Budget; and Senator Ring

576-05095-11

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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. 215.444, F.S.; reducing the  
11 number of members on the Investment Advisory Council;  
12 amending s. 215.4755, F.S.; correcting cross-  
13 references; clarifying provisions prohibiting certain  
14 conflicts of interest by investment advisers and  
15 managers retained by the board; providing an effective  
16 date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

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

22 215.44 Board of Administration; powers and duties in  
23 relation to investment of trust funds.—

24 (1) Except when otherwise specifically provided by the  
25 State Constitution and subject to any limitations of the trust  
26 agreement relating to a trust fund, the Board of Administration,  
27 sometimes referred to in this chapter as "board" or "Trustees of  
28 the State Board of Administration," composed of the Governor as  
29 chair, the Chief Financial Officer, and the Attorney General,

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30 shall invest all the funds in the System Trust Fund, as defined  
31 in s. 121.021(36), and all other funds specifically required by  
32 law to be invested by the board pursuant to ss. 215.44-215.53 to  
33 the fullest extent that is consistent with the cash  
34 requirements, trust agreement, and investment objectives of the  
35 fund. Notwithstanding any other law to the contrary, the State  
36 Board of Administration may invest any funds of any state  
37 agency, any state university or college, any unit of local  
38 government, or any direct-support organization thereof pursuant  
39 to the terms of a trust agreement with the head of the state  
40 agency or the governing body of the state university or college,  
41 unit of local government, or direct-support organization  
42 thereof, ~~or pursuant to the enrollment requirements stated in s.~~  
43 ~~218.407,~~ and may invest such funds in the Local Government  
44 Surplus Funds Trust Fund created by s. 218.405, without a trust  
45 agreement, upon completion of enrollment materials provided by  
46 the board. The board shall approve the undertaking of  
47 investments subject to a trust agreement before execution of  
48 such trust agreement by the State Board of Administration. The  
49 funds and the earnings therefrom are exempt from the service  
50 charge imposed by s. 215.20. As used in this subsection, the  
51 term "state agency" has the same meaning as that provided in s.  
52 216.011, and the terms "governing body" and "unit of local  
53 government" have the same meaning as that provided in s.  
54 218.403.

55 (3) Notwithstanding any law to the contrary, all  
56 investments made by the State Board of Administration pursuant  
57 to ss. 215.44-215.53 shall be subject to the restrictions and  
58 limitations contained in s. 215.47, except that investments made

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59 by the board under a trust agreement pursuant to subsection (1)  
60 are subject only to the restrictions and limitations contained  
61 in that trust agreement.

62 Section 2. Section 215.444, Florida Statutes, is amended to  
63 read:

64 215.444 Investment Advisory Council.—

65 (1) There is created a six-member Investment Advisory  
66 Council to review the investments made by the staff of the Board  
67 of Administration and to make recommendations to the board  
68 regarding investment policy, strategy, and procedures. Beginning  
69 February 1, 2011, the membership of the council shall be  
70 expanded to nine members. Beginning July 1, 2011, council  
71 membership shall be reduced by not refilling council positions  
72 as the terms of the members expire until council membership  
73 consists of six members. The council shall meet with staff of  
74 the board at least once each quarter and shall provide a  
75 quarterly report directly to the Board of Trustees of the State  
76 Board of Administration at a meeting of the board.

77 (2) The members of the council shall be appointed by the  
78 board as a resource to the Board of Trustees of the State Board  
79 of Administration and shall be subject to confirmation by the  
80 Senate. These individuals shall possess special knowledge,  
81 experience, and familiarity with portfolio management,  
82 institutional investments, and fiduciary responsibilities.  
83 Members shall be appointed for 4-year terms. A vacancy shall be  
84 filled for the remainder of the unexpired term. The council  
85 shall annually elect a chair and a vice chair from its  
86 membership. A member may not be elected to consecutive terms as  
87 chair or vice chair.

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88 (3) The council members must undergo regular fiduciary  
89 training as required by the board and must complete an annual  
90 conflict disclosure statement. In carrying out their duties,  
91 council members must make recommendations consistent with the  
92 fiduciary standards applicable to the board.

93 (4) The council may create subcommittees as necessary to  
94 carry out its duties and responsibilities.

95 Section 3. Subsections (1) and (2) of section 215.4755,  
96 Florida Statutes, are amended to read:

97 215.4755 Certification and disclosure requirements for  
98 investment advisers and managers.—

99 (1) An investment adviser or manager who has discretionary  
100 investment authority for direct holdings and who is retained as  
101 provided in s. 215.44(2)(b) ~~215.44(2)(e)~~ shall agree pursuant to  
102 contract to annually certify in writing to the board that:

103 (a) All investment decisions made on behalf of the trust  
104 funds and the board are made in the best interests of the trust  
105 funds and the board and not made in a manner to the advantage of  
106 such investment adviser or manager, other persons, or clients to  
107 the detriment of the trust funds and the board.

108 (b) Appropriate policies, procedures, or other safeguards  
109 have been adopted and implemented to ensure that relationships  
110 with any affiliated persons or entities do not adversely  
111 influence the investment decisions made on behalf of the trust  
112 funds and the board.

113 (c) A written code of ethics, conduct, or other set of  
114 standards, which governs the professional behavior and  
115 expectations of owners, general partners, directors or managers,  
116 officers, and employees of the investment adviser or manager,

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117 has been adopted and implemented and is effectively monitored  
118 and enforced. The investment advisers' and managers' code of  
119 ethics shall require that:

120 1. Officers and employees involved in the investment  
121 process refrain from personal business activity that could  
122 conflict with the proper execution and management of the  
123 investment program over which the investment adviser or manager  
124 has discretionary investment authority or that could impair  
125 their ability to make impartial decisions with respect to such  
126 investment program; and

127 2. Officers and employees refrain from undertaking personal  
128 investment transactions with the same employee at a broker-  
129 dealer firm ~~individual~~ with whom business is conducted on behalf  
130 of the board.

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

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

139 2. Any personal financial or investment positions of the  
140 investment adviser or manager that could be related to the  
141 performance of an investment program over which the investment  
142 adviser or manager has discretionary investment authority on  
143 behalf of the board.

144 (2) At the board's request, an investment adviser or  
145 manager who has discretionary investment authority over direct

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146 holdings and who is retained as provided in s. 215.44(2)(b)  
147 ~~215.44(2)(c)~~ shall disclose in writing to the board:

148 (a) Any nonconfidential, nonproprietary information or  
149 reports to substantiate the certifications required under  
150 subsection (1).

151 (b) All direct or indirect pecuniary interests that the  
152 investment adviser or manager has in or with any party to a  
153 transaction with the board, if the transaction is related to any  
154 discretionary investment authority that the investment adviser  
155 or manager exercises on behalf of the board.

156 Section 4. This act shall take effect July 1, 2011.