

By the Committee on Budget; and Senator Ring

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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:

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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.