

HB 335

2011

1 A bill to be entitled
2 An act relating to placement agents; amending s. 215.47,
3 F.S.; prohibiting state investment funds from being used
4 to pay the fees or commissions of placement agents;
5 requiring the State Board of Administration to deal
6 directly with private equity firms and companies issuing
7 securities; providing an effective date.
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9 WHEREAS, according to media reports, Florida's public
10 retirement and pension system has invested approximately \$2
11 billion in multiple private investment firms between December,
12 2009, and October, 2010, and

13 WHEREAS, placement agents, who serve as intermediaries to
14 connect investment firms with state pension systems, often
15 receive finder's fees of approximately 1 to 2 percent of the
16 investment or even \$1.5 million for their nominal services,
17 which can result in higher management fees that are paid by the
18 taxpayers of this state, and

19 WHEREAS, because placement agents are not hired or employed
20 by the retirement and pension funds, the disclosure of who is
21 involved in the transaction, what fees are paid, and what work
22 is done to merit the fees is often obscure, and

23 WHEREAS, once placement agents were discovered to be
24 involved in kick-back scandals involving public pension funds in
25 other states, their practices came under scrutiny and even
26 regulation, and

27 WHEREAS, an investigation into placement agents and state
28 pension fund misconduct in one state has resulted in multiple

29 | guilty pleas and the recovery of more than \$120 million for the
 30 | state pension fund, and

31 | WHEREAS, in light of these problems involving placement
 32 | agents and public pension funds, the Securities and Exchange
 33 | Commission has begun requiring the registration of placement
 34 | agents, and

35 | WHEREAS, reputable national financial advisors have argued
 36 | that there is no legitimate reason to employ the services of
 37 | placement agents, and

38 | WHEREAS, in the instances in which the State Board of
 39 | Administration of this state made placement-agent pay a public
 40 | record, it was discovered that placement agents, in seven
 41 | transactions, received approximately \$12 million or
 42 | approximately 1.5 percent of Florida's investment of \$825
 43 | million, and

44 | WHEREAS, it is reasonably believed that all management fees
 45 | that are paid to the private investment firm reduce the amount
 46 | of return paid to the investor, who is the taxpayer of this
 47 | state, NOW, THEREFORE,

48 |

49 | Be It Enacted by the Legislature of the State of Florida:

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51 | Section 1. Subsection (22) is added to section 215.47,
 52 | Florida Statutes, to read:

53 | 215.47 Investments; authorized securities; loan of
 54 | securities.—Subject to the limitations and conditions of the
 55 | State Constitution or of the trust agreement relating to a trust
 56 | fund, moneys available for investments under ss. 215.44-215.53

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57 may be invested as follows:

58 (22) Notwithstanding any other provision of law, no
59 portion of moneys invested under this section, including any
60 portion used to pay an investment manager's fee, may be used to
61 pay placement agent fees or commissions. As used in this
62 subsection, the term "placement agent" means an individual who
63 is hired by a private equity fund or company issuing securities
64 for the purpose of finding people who are interested in
65 investing in the fund or securities. In selecting and purchasing
66 investments, the board must deal directly with the investment
67 fund or company and not through a placement agent.

68 Section 2. This act shall take effect upon becoming a law.