

ENROLLED
HB 7155

2011 Legislature

1 A bill to be entitled
2 An act relating to state financial matters; amending s.
3 215.44, F.S.; revising provisions which authorize the
4 State Board of Administration to invest specified funds
5 pursuant to the enrollment requirements of a local
6 government investment authority; authorizing the board to
7 invest specified funds in the Local Government Surplus
8 Funds Trust Fund without a trust agreement upon completion
9 of enrollment materials provided by the board; providing
10 that investments made by the board under a trust agreement
11 are subject only to the restrictions and limitations
12 contained in the trust agreement; amending s. 215.4755,
13 F.S.; correcting a cross-reference; clarifying provisions
14 with respect to an investment adviser's or manager's code
15 of ethics; providing an effective date.

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

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

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

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

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

54 (3) Notwithstanding any law to the contrary, all
 55 investments made by the State Board of Administration pursuant
 56 to ss. 215.44-215.53 shall be subject to the restrictions and

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57 | limitations contained in s. 215.47, except that investments made
 58 | by the State Board of Administration under a trust agreement
 59 | pursuant to subsection (1) shall be subject only to the
 60 | restrictions and limitations contained in the trust agreement.

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

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

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

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

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

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

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85 ethics shall require that:

86 1. Officers and employees involved in the investment
 87 process refrain from personal business activity that could
 88 conflict with the proper execution and management of the
 89 investment program over which the investment adviser or manager
 90 has discretionary investment authority or that could impair
 91 their ability to make impartial decisions with respect to such
 92 investment program; and

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

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

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

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

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

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113 shall disclose in writing to the board:

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

117 (b) All direct or indirect pecuniary interests that the
118 investment adviser or manager has in or with any party to a
119 transaction with the board, if the transaction is related to any
120 discretionary investment authority that the investment adviser
121 or manager exercises on behalf of the board.

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