

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1314

INTRODUCER: Senator Hooper

SUBJECT: State Board of Administration Alternative Investments

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1314 modifies the authority of the State Board of Administration to invest in “alternative investments” for the assets of the Florida Retirement System and other mandated funds. The bill increases the maximum percentage of assets a fund may have in alternative investments to 30 percent from 20 percent. Alternative investments include private equity funds, venture funds, hedge funds, and distress funds as well as securities and investments that are not publicly traded and not otherwise authorized in law.

The bill is not expected to impact the state and local government revenues and expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

State Board of Administration Investing Duties

The State Board of Administration (SBA) is created in Article IV, s. 4(e) of the Florida Constitution. Its members are the Governor, the Chief Financial Officer, and the Attorney General. The board derives its powers to oversee state funds from Article XII, s. 9 of the Florida Constitution.

The SBA has responsibility for investing the assets of the Florida Retirement System (FRS) Pension Plan and administering the FRS Investment Plan, which combined represent approximately \$217 billion, or 86 percent, of the \$251.7 billion in assets managed by the SBA, as of November 30, 2021. The Pension Plan is a defined benefit plan and the Investment Plan is a defined contribution plan that employees may choose in lieu of the Pension Plan. The SBA also manages over 25 other investment portfolios, with combined assets of \$34 billion, including the

Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.¹

In investing assets, the SBA follows fiduciary standards of care, subject to certain statutory restrictions and limitations.² Pursuant to s. 215.444, F.S., a nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures. The SBA's authority to invest the funds, including FRS assets, is governed by s. 215.47, F.S., which provides for a "legal list" of the types of investments and for how much of any fund may be invested in each investment type.³

As part of its best interests, maximization, and diversification actions, the SBA invests in multiple asset classes: global equities, fixed income, real estate, strategic investments, and private equity. Relevant to this legislation, s. 215.47(15), F.S., limits the SBA's authority to invest funds in alternative investments at not more than 20 percent of any fund. "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.⁴ The use of alternative investments vehicles was first authorized in 1996 at a maximum of five percent of a fund.⁵ In 2007, the use was expanded to include a broader spectrum of alternative investments, including private equity funds, venture funds, hedge funds, and distress funds.⁶ In 2008, this maximum threshold was increased to 10 percent.⁷ In 2012, the threshold was again increased to 20 percent.⁸

The table below shows key valuation and asset allocation data relating to the investments of the FRS pension plan assets. Over the three year period, the amount invested in the alternative investments (Strategic Investments and Private Equity) grew from 15.17 percent of the assets of the FRS to 17.78 percent of the assets, narrowing the capacity available under the 20 percent maximum threshold.

¹ State Board of Administration "Performance Report to the Trustees for the Month Ending November 30, 2021," issued January 26, 2022.

² Sections 215.44, 215.471, 215.472, 215.4725, and 215.273, F.S.

³ Section 215.47, F.S., sets some key guidelines such as:

- No more than 80 percent of assets may be invested in domestic common stocks.
- No more than 75 percent of assets may be invested in internally managed common stocks.
- No more than 3 percent of equity assets may be invested in the equity securities of any one corporation, except when the securities of that corporation are included in any broad equity index or with approval of the Board; and in such case, no more than 10 percent of equity assets may be invested in the equity securities of any one corporation.
- No more than 80 percent of assets may be placed in corporate fixed income securities.
- No more than 25 percent of assets may be invested in notes secured by FHA-insured or VA-guaranteed first mortgages on Florida real property, or foreign government general obligations with a 25-year default-free history.
- No more than 25 percent of assets may be invested in foreign corporate or commercial securities or obligations.

⁴ Section 215.4401(3)(a), F.S.

⁵ Chapter 199-177, L.O.F., authorized the SBA to invest up to 5 percent of a fund in private equity through participation in limited partnerships and limited liability companies.

⁶ Chapter 2007-98, L.O.F.

⁷ Chapter 2008-31, L.O.F., increased the threshold to 10 percent and expanded this limitation to authorize SBA to invest in securities or investments that are not publicly traded and are not otherwise authorized in s. 214.47, F.S.

⁸ Chapter 2012-112, L.O.F.

Asset Class	Dollar Volume (\$ billions) 6/30/2018 ⁹	Percentage of Fund 6/30/2018	Dollar Volume (\$ billions) 6/30/2021 ¹⁰	Percentage of Fund 6/30/2021	Percentage Point Change in Assets Held by Fund
Global Equities	\$89.983	56.08%	\$110.156	55.19%	(0.89)
Fixed Income	\$30.069	18.74%	\$34.551	17.31%	(1.43)
Real Estate	\$14.340	8.93%	\$16.821	8.47%	(0.46)
Strategic Investments	\$12.917	8.05%	\$18.134	9.09%	1.04
Private Equity	\$11.429	7.12%	\$17.339	8.69%	1.57
Cash	\$1.697	1.05%	\$2.596	1.30%	0.25
Total	\$160.438	100%	\$199.600	100%	

The Private Equity asset class is generally described as illiquid with investment obligations contracted over at least a ten year horizon. The Strategic Investments are typically quasi-liquid or illiquid with investment obligations contracted within a ten year period. If the alternative investments pool volume begins to meet or exceed the statutory threshold, the SBA, in balancing its fiduciary duty against the statutory limitations, will be required to forego new investments in the assets class rather than divest in current active investments. Divesting in alternative investment vehicles to stay within the statutory threshold would require the SBA to sell assets prematurely, which may not be in the best interests of the fund.

III. Effect of Proposed Changes:

Section 1 amends s. 215.47, F.S., to increase the amount of funds that may be invested in alternative investments to 30 percent of total fund assets from 20 percent of total fund assets.

Section 2 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ State Board of Administration “Annual Investment Report July 1, 2017 – June 30, 2018,” page 32.

¹⁰ State Board of Administration “Annual Investment Report July 1, 2020 – June 30, 2021,” page 34.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.47 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.