

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 971 State Board of Administration Alternative Investments

SPONSOR(S): LaMarca

TIED BILLS: IDEN./SIM. BILLS: SB 1314

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	15 Y, 0 N	Villa	Toliver
2) Appropriations Committee	25 Y, 0 N	Helpling	Pridgeon
3) State Affairs Committee	21 Y, 2 N	Villa	Williamson

SUMMARY ANALYSIS

The State Board of Administration (SBA) is responsible for managing investments for the Florida Retirement System (FRS) Pension Plan and for administering the FRS Investment Plan, which represent approximately \$221.8 billion (80 percent) of the \$259.9 billion in assets managed by the SBA. The SBA's ability to invest FRS assets is governed by a "legal list" of the types of investments and the total percentage of funds that may be invested in each type. Currently, the SBA may invest up to 20 percent of any of its funds in alternative investments. An alternative investment is 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.

The bill authorizes the SBA to invest up to 30 percent of any of its funds in alternative investments, which is an increase from the current maximum of 20 percent.

The bill does not appear to have a fiscal impact on state government or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Board of Administration

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the Florida Constitution, and is composed of the Governor as Chair, the Chief Financial Officer, and the Attorney General. The SBA members are commonly referred to as “Trustees.” The SBA derives its power to oversee state funds from Art. XII, s. 9 of the Florida Constitution.

The SBA has responsibility for managing investments for the Florida Retirement System (FRS) Pension Plan and for administering the FRS Investment Plan, which represent approximately \$221.8 billion (80 percent) of the \$259.9 billion in assets managed by the SBA, as of January 4, 2022.¹ The SBA also manages approximately 30 other investment portfolios, with combined assets of \$30 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Pre-Paid College Plan, and various debt-service accounts for state bond issues.²

SBA Investments

Investment decisions for the pension plan are made by fiduciaries hired by the state. Under Florida law, an SBA fiduciary charged with an investment decision must act as a prudent expert would under similar circumstances, considering all relevant substantive factors. A nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures.³

The SBA’s ability to invest the FRS assets is governed by s. 215.47, F.S., which provides for a “legal list” of the types of investments and the total percentage that may be invested in each type of investment. Some “legal list” guidelines specific to the pension plan provide that:

- No more than 80 percent of assets invested in domestic common stocks.
- No more than 75 percent of the assets invested in internally managed common stocks.
- No more than 3 percent of equity assets invested in the equity securities of any one corporation, except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, or except upon a specific finding by the SBA that such higher percentage is in the best interest of the fund.
- No more than 25 percent of assets invested in notes secured by the Federal Housing Administration-insured or the United States Department of Veterans Affairs-guaranteed first mortgages on Florida real property, or foreign government general obligations.
- No more than 50 percent of assets invested in foreign corporate or commercial securities or obligations.
- No more than 20 percent of assets invested in alternative investments.

Alternative Investments

As noted above, the “legal list” guidelines include the authorization to invest no more than 20 percent of assets in alternative investments through participation in alternative investment vehicles,⁴ or other non-publicly traded investments.⁵ An “alternative investment” means an investment by the SBA in a private

¹ SBA Agency Bill Analysis for HB 971, on file with the Government Operations Subcommittee.

² State Board of Administration, *Annual Investment Report July 1, 2020 – June 30, 2021*, available at: https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Annual/2020-2021_AIR.pdf?ver=2021-12-03-085005-077 (last visited January 24, 2022).

³ Section 215.444(1), F.S.

⁴ “Alternative investment vehicle” means the limited partnership, limited liability company, or similar legal structure or investment manager through which the State Board of Administration invests in a portfolio company. Section 215.4401(3)(a)2., F.S.

⁵ Section 215.47(15), F.S.

equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.⁶

The cap on alternative investments was last changed in 2012, when it was raised from 10 percent to 20 percent.⁷ Currently, the SBA has approximately 18 percent of its funds invested in alternative investments.⁸

Effect of the Bill

The bill authorizes the SBA to invest up to 30 percent of any of its funds in alternative investments, which is an increase from the current maximum of 20 percent.

B. SECTION DIRECTORY:

Section 1 amends s. 215.47, F.S., relating to investments.

Section 2 provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁶ Section 215.4401(3)(a)1., F.S.

⁷ Chapter 2012-112, L.O.F.

⁸ SBA Agency Analysis, *supra* note 1.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not confer rulemaking authority nor require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.