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Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to the State Board of Administration;  
amending s. 121.091, F.S.; prohibiting the State Board  
of Administration from paying benefits to a Florida  
Retirement System investment plan member convicted of  
specified felonies; requiring the state board to  
return to a member contributions that were accumulated  
up to the date of conviction; prohibiting the state  
board from paying benefits until the resolution of the  
proceedings of any potentially disqualifying offenses;  
amending s. 121.4501, F.S.; authorizing the state  
board to develop investment products to be offered in  
the investment plan; revising the process for a  
member's spouse to acknowledge that he or she is not  
the primary beneficiary of the member's benefits;  
authorizing a member to request a waiver of such  
acknowledgement under certain circumstances; amending  
s. 215.47, F.S.; revising the types of investments in  
real property and related personal property which the  
state board may invest in; authorizing the state board  
and certain affiliated entities and ventures to issue  
securities and borrow money through specified means;  
authorizing the state board to use the proceeds of  
loans or financing obligations as loans to or sources  
of funding for certain entities or ventures; requiring  
the ownership of an entity holding title to real  
property to be vested in the name of the Florida



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28 Retirement System Trust Fund; revising the funds in  
29 which the state may invest no more than 80 percent of  
30 its moneys available for investments; revising the  
31 requirements of the proposed plan the state board must  
32 present to the Investment Advisory Council to invest  
33 in unauthorized investments; deleting authorization  
34 for the council to obtain independent investment  
35 counsel to provide expert advice on state board  
36 investment activity; revising the threshold for the  
37 amount that may be invested in alternative  
38 investments; reenacting ss. 112.661(5)(a),  
39 420.503(3)(a), and 1002.36(4)(e), F.S., relating to  
40 authorized investments, the definition of "authorized  
41 investments", and investments made on behalf of the  
42 Florida School for the Deaf and the Blind,  
43 respectively, to incorporate the amendments made to s.  
44 215.47, F.S., in references thereto; providing an  
45 effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Paragraphs (i) and (k) of subsection (5) of  
50 section 121.091, Florida Statutes, are amended to read:

51 121.091 Benefits payable under the system.—Benefits may not  
52 be paid under this section unless the member has terminated  
53 employment as provided in s. 121.021(39)(a) or begun  
54 participation in the Deferred Retirement Option Program as  
55 provided in subsection (13), and a proper application has been  
56 filed in the manner prescribed by the department. The department



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57 may cancel an application for retirement benefits when the  
58 member or beneficiary fails to timely provide the information  
59 and documents required by this chapter and the department's  
60 rules. The department shall adopt rules establishing procedures  
61 for application for retirement benefits and for the cancellation  
62 of such application when the required information or documents  
63 are not received.

64 (5) TERMINATION BENEFITS.—A member whose employment is  
65 terminated prior to retirement retains membership rights to  
66 previously earned member-noncontributory service credit, and to  
67 member-contributory service credit, if the member leaves the  
68 member contributions on deposit in his or her retirement  
69 account. If a terminated member receives a refund of member  
70 contributions, such member may reinstate membership rights to  
71 the previously earned service credit represented by the refund  
72 by completing 1 year of creditable service and repaying the  
73 refunded member contributions, plus interest.

74 (i) The division or the state board may not pay benefits to  
75 any member convicted of a felony committed on or after October  
76 1, 2008, defined in s. 800.04 against a victim younger than 16  
77 years of age, or defined in chapter 794 against a victim younger  
78 than 18 years of age, through the use or attempted use of power,  
79 rights, privileges, duties, or position of the member's public  
80 office or employment position. However, the division or the  
81 state board shall return the member's accumulated contributions,  
82 if any, that the member accumulated as of the date of  
83 conviction.

84 (k) Benefits may ~~shall~~ not be paid by the division or the  
85 state board pending final resolution of such charges against a



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86 member or beneficiary if the resolution of such charges could  
87 require the forfeiture of benefits as provided in paragraph (f),  
88 paragraph (g), paragraph (h), paragraph (i), ~~or~~ paragraph (j),  
89 or chapter 112.

90 Section 2. Paragraph (b) of subsection (20) of section  
91 121.4501, Florida Statutes, is amended, and paragraph (h) is  
92 added to subsection (8) of that section, to read:

93 121.4501 Florida Retirement System Investment Plan.—

94 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan  
95 shall be administered by the state board and affected employers.  
96 The state board may require oaths, by affidavit or otherwise,  
97 and acknowledgments from persons in connection with the  
98 administration of its statutory duties and responsibilities for  
99 the investment plan. An oath, by affidavit or otherwise, may not  
100 be required of a member at the time of enrollment.

101 Acknowledgment of an employee's election to participate in the  
102 program shall be no greater than necessary to confirm the  
103 employee's election. The state board shall adopt rules to carry  
104 out its statutory duties with respect to administering the  
105 investment plan, including establishing the roles and  
106 responsibilities of affected state, local government, and  
107 education-related employers, the state board, the department,  
108 and third-party contractors. The department shall adopt rules  
109 necessary to administer the investment plan in coordination with  
110 the pension plan and the disability benefits available under the  
111 investment plan.

112 (h) The state board, consistent with its fiduciary  
113 responsibilities, may develop one or more investment products to  
114 be offered in the investment plan.



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(20) DESIGNATION OF BENEFICIARIES.—

(b) If a member is married, but does not designate his or her spouse as designates a primary beneficiary, the spouse must be notified and acknowledge that he or she has not been so designated. Notwithstanding the foregoing, if the spouse cannot be located or fails to affirmatively acknowledge that he or she has not been so designated, the member may request that the acknowledgement requirement be waived by the state board by submitting an affidavit setting forth the particular facts and circumstances other than the member's spouse, the member's spouse must sign the beneficiary designation form to acknowledge the designation. This requirement does not apply to the designation of one or more contingent beneficiaries to receive benefits remaining upon the death of the primary beneficiary or beneficiaries.

Section 3. Paragraph (e) of subsection (2) and subsections (3), (6), and (15) of section 215.47, Florida Statutes, are amended to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(2) With no more than 25 percent of any fund in:

(e) Certain interests in real property and related personal property which may be owned through affiliated limited liability entities or joint ventures, which include, but are not limited to, including mortgages and related instruments secured by ~~on commercial or industrial~~ real property, and instruments



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144 containing ~~with~~ provisions for equity or income participation or  
145 with provisions for convertibility to equity ownership; and  
146 interests in real property-related collective investment funds.  
147 The State Board of Administration and its affiliated limited  
148 liability entities or joint ventures may issue securities and  
149 borrow money through loans or other financial obligations,  
150 including bonds, equity securities, and other security  
151 instruments, any of which may be unsecured or secured by  
152 investments in real property or related cash flows, guaranteed  
153 by the related fund, or governed by financial covenants. The  
154 proceeds of such loans or financing obligations may be loaned to  
155 or otherwise used as a source of funding for affiliated limited  
156 liability entities or joint ventures. Associated expenditures  
157 for acquisition and operation of assets purchased under this  
158 provision or of investments in private equity or other private  
159 investment partnerships or limited liability companies must  
160 ~~shall~~ be included as a part of the cost of the investment.

161 1. The title to real property, or ownership of the entity  
162 holding title to real property, acquired under this paragraph  
163 shall be vested in the name of the respective fund.

164 2. For purposes of taxation of property owned by any fund,  
165 the provisions of s. 196.199(2) (b) do not apply.

166 3. Real property acquired under ~~the provisions of~~ this  
167 paragraph may ~~shall~~ not be considered state lands or public  
168 lands and property as defined in chapter 253, and ~~the provisions~~  
169 ~~of~~ that chapter does ~~do~~ not apply to such real property.

170 (3) With no more than 80 percent of any fund in equity  
171 securities or securities convertible into equity securities of  
172 any entity ~~common stock, preferred stock, and interest-bearing~~



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173 ~~obligations of a corporation having an option to convert into~~  
174 ~~common stock~~, provided:

175 (a) The entity ~~corporation~~ is organized under the laws of  
176 the United States, any state or organized territory of the  
177 United States, or the District of Columbia; ~~or~~

178 (b) The entity ~~corporation~~ is listed on any one or more of  
179 the recognized national stock exchanges in the United States and  
180 conforms with the periodic reporting requirements under the  
181 Securities Exchange Act of 1934; or-

182 (c) Not more than 75 percent of the fund may be in  
183 internally managed equity securities ~~common stock~~.

184  
185 The board may ~~shall~~ not invest more than 10 percent of the  
186 equity assets of any fund in the equity securities ~~common stock~~,  
187 ~~preferred stock, and interest-bearing obligations having an~~  
188 ~~option to convert into common stock~~, of any one issuing entity  
189 ~~corporation~~; and the board may ~~shall~~ not invest more than 3  
190 percent of the equity assets of any fund in such securities of  
191 any one issuing entity ~~corporation~~ except to the extent a higher  
192 percentage of the same issue is included in a nationally  
193 recognized market index, based on market values, at least as  
194 broad as the Standard and Poor's Composite Index of 500  
195 Companies, or except upon a specific finding by the board that  
196 such higher percentage is in the best interest of the fund.

197 (6) With no more than 5 percent of any fund to be invested  
198 as deemed appropriate by the board, notwithstanding investment  
199 limitations otherwise expressed in this section. Before ~~Prior to~~  
200 the board engages ~~engaging~~ in any investment activity not  
201 otherwise authorized under ss. 215.44-215.53, excluding



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202 investments in publicly traded securities, options, financial  
203 futures, or similar instruments, the board shall present to the  
204 Investment Advisory Council a proposed plan for such investment.  
205 Such ~~Said~~ plan must ~~shall~~ include, but not be limited to, a  
206 detailed analysis of the investment, the expected benefits and  
207 potential risks of such activity, and the ~~z~~ methods for  
208 monitoring and measuring the performance of the investment; ~~a~~  
209 ~~complete description of the type, nature, extent and purpose of~~  
210 ~~the investment, including description of issuer, security in~~  
211 ~~which investment is proposed to be made, voting rights or lack~~  
212 ~~thereof and control to be acquired, restrictions upon voting,~~  
213 ~~transfer, and other material rights of ownership, and the~~  
214 ~~existence of any contracts, arrangements, understandings, or~~  
215 ~~relationships with any person or entity (naming the same) with~~  
216 ~~respect to the proposed investment; and assurances that~~  
217 ~~sufficient investment expertise is available to the board to~~  
218 ~~properly evaluate and manage such activity. The Investment~~  
219 ~~Advisory Council may obtain independent investment counsel to~~  
220 ~~provide expert advice with regard to such proposed investment~~  
221 ~~activity by the board, and the board shall defray such costs.~~

222 (15) With no more, in the aggregate, than 30 ~~20~~ percent of  
223 any fund in alternative investments through participation in an  
224 alternative investment vehicle as those terms are defined in s.  
225 215.4401(3)(a), or in securities or investments that are not  
226 publicly traded and not otherwise authorized by this section.

227 Section 4. For the purpose of incorporating the amendments  
228 made by this act to section 215.47, Florida Statutes, in a  
229 reference thereto, paragraph (a) of subsection (5) of section  
230 112.661, Florida Statutes, is reenacted to read:





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231           112.661 Investment policies.—Investment of the assets of  
232 any local retirement system or plan must be consistent with a  
233 written investment policy adopted by the board. Such policies  
234 shall be structured to maximize the financial return to the  
235 retirement system or plan consistent with the risks incumbent in  
236 each investment and shall be structured to establish and  
237 maintain an appropriate diversification of the retirement system  
238 or plan's assets.

239           (5) AUTHORIZED INVESTMENTS.—

240           (a) The investment policy shall list investments authorized  
241 by the board. Investments not listed in the investment policy  
242 are prohibited. Unless otherwise authorized by law or ordinance,  
243 the investment of the assets of any local retirement system or  
244 plan covered by this part shall be subject to the limitations  
245 and conditions set forth in s. 215.47(1)-(6), (8), (9), (11) and  
246 (17).

247           Section 5. For the purpose of incorporating the amendments  
248 made by this act to section 215.47, Florida Statutes, in a  
249 reference thereto, paragraph (a) of subsection (3) of section  
250 420.503, Florida Statutes, is reenacted to read:

251           420.503 Definitions.—As used in this part, the term:

252           (3) "Authorized investments" means any of the following  
253 securities:

254           (a) Investments permitted under s. 215.47(1) and (2),  
255 without regard to any limitation set forth therein.

256           Section 6. For the purpose of incorporating the amendments  
257 made by this act to section 215.47, Florida Statutes, in a  
258 reference thereto, paragraph (e) of subsection (4) of section  
259 1002.36, Florida Statutes, is reenacted to read:



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- 260           1002.36 Florida School for the Deaf and the Blind.—  
261           (4) BOARD OF TRUSTEES.—  
262           (e) The board of trustees is invested with full power and  
263 authority to:  
264           1. Appoint a president, faculty, teachers, and other  
265 employees and remove the same as in its judgment may be best and  
266 fix their compensation.  
267           2. Procure professional services, such as medical, mental  
268 health, architectural, and engineering.  
269           3. Procure legal services without the prior written  
270 approval of the Attorney General.  
271           4. Determine eligibility of students and procedure for  
272 admission.  
273           5. Provide for the students of the school necessary  
274 bedding, clothing, food, and medical attendance and such other  
275 things as may be proper for the health and comfort of the  
276 students without cost to their parents, except that the board of  
277 trustees may set tuition and other fees for nonresidents.  
278           6. Provide for the proper keeping of accounts and records  
279 and for budgeting of funds.  
280           7. Enter into contracts.  
281           8. Sue and be sued.  
282           9. Secure public liability insurance.  
283           10. Do and perform every other matter or thing requisite to  
284 the proper management, maintenance, support, and control of the  
285 school at the highest efficiency economically possible, the  
286 board of trustees taking into consideration the purposes of the  
287 establishment.  
288           11. Receive gifts, donations, and bequests of money or



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289 property, real or personal, tangible or intangible, from any  
290 person, firm, corporation, or other legal entity. However, the  
291 board of trustees may not obligate the state to any expenditure  
292 or policy that is not specifically authorized by law. If the  
293 bill of sale, will, trust indenture, deed, or other legal  
294 conveyance specifies terms and conditions concerning the use of  
295 such money or property, the board of trustees shall observe such  
296 terms and conditions.

297       12. Deposit outside the State Treasury such moneys as are  
298 received as gifts, donations, or bequests and may disburse and  
299 expend such moneys, upon its own warrant, for the use and  
300 benefit of the Florida School for the Deaf and the Blind and its  
301 students, as the board of trustees deems to be in the best  
302 interest of the school and its students. Such money or property  
303 does not constitute and may not be considered a part of any  
304 legislative appropriation.

305       13. Sell or convey by bill of sale, deed, or other legal  
306 instrument any property, real or personal, received as a gift,  
307 donation, or bequest, upon such terms and conditions as the  
308 board of trustees deems to be in the best interest of the school  
309 and its students.

310       14. Invest such moneys in securities enumerated under s.  
311 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund,  
312 an Investment Management Fund exclusively for nonprofit  
313 educational institutions.

314       15. After receiving approval from the Administration  
315 Commission, exercise the power of eminent domain in the manner  
316 provided in chapter 73 or chapter 74.

317       Section 7. This act shall take effect upon becoming a law.