

By Senator Hooper

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1                                   A bill to be entitled  
2       An act relating to the State Board of Administration;  
3       amending s. 215.47, F.S.; revising the types of  
4       investments in real property and related personal  
5       property which the board may make; authorizing the  
6       board and certain affiliated entities and ventures to  
7       issue securities and borrow money through specified  
8       means; authorizing the board to use the proceeds of  
9       loans or financing obligations as loans to or sources  
10      of funding for certain entities; requiring the  
11      ownership of an entity holding title to real property  
12      to be vested in the name of the System Trust Fund;  
13      revising the funds in which the state may invest no  
14      more than 80 percent of its moneys available for  
15      investments; revising the requirements of the proposed  
16      plan the board must present to the Investment Advisory  
17      Council to invest in unauthorized investments;  
18      deleting authorization for the council to obtain  
19      independent investment counsel to provide expert  
20      advice on board investment activity; requiring the  
21      board's evaluation of an investment to be based solely  
22      on pecuniary factors; defining the term "pecuniary  
23      factor"; providing construction; revising the  
24      threshold for the amount of the fund which may be  
25      invested in alternative investments; authorizing the  
26      board and certain affiliated entities to issue  
27      securities and borrow money through specified means;  
28      reenacting ss. 112.661(5)(a), 218.409(2)(a),  
29      420.503(3)(a), and 1002.36(4)(e), F.S., relating to

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30 authorized investments, administration of the trust  
31 fund, investments the board is permitted to make, and  
32 investments made on behalf of the Florida School for  
33 the Deaf and the Blind, respectively, to incorporate  
34 the amendments made to s. 215.47, F.S., in references  
35 thereto; providing an effective date.  
36

37 Be It Enacted by the Legislature of the State of Florida:  
38

39 Section 1. Paragraph (e) of subsection (2) and subsections  
40 (3), (6), (10), and (15) of section 215.47, Florida Statutes,  
41 are amended to read:

42 215.47 Investments; authorized securities; loan of  
43 securities.—Subject to the limitations and conditions of the  
44 State Constitution or of the trust agreement relating to a trust  
45 fund, moneys available for investments under ss. 215.44-215.53  
46 may be invested as follows:

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

48 (e) Certain interests in real property and related personal  
49 property that may be owned through affiliated limited liability  
50 entities or joint ventures, which include, but are not limited  
51 to, including mortgages and related instruments secured by ~~on~~  
52 commercial or industrial real property, and instruments  
53 containing with provisions for equity or income participation or  
54 with provisions for convertibility to equity ownership; and  
55 interests in real property-related collective investment funds.  
56 The State Board of Administration and its affiliated limited  
57 liability entities or joint ventures may issue securities and  
58 borrow money through loans or other financial obligations,

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59 including bonds, equity securities, and other security  
60 instruments, any of which may be unsecured, or secured by  
61 investments in real property or related cash flows, guaranteed  
62 by the related fund, or governed by financial covenants. The  
63 proceeds of such loans or financing obligations may be loaned to  
64 or otherwise used as a source of funding for affiliated limited  
65 liability entities or joint ventures. Associated expenditures  
66 for acquisition and operation of assets purchased under this  
67 provision or of investments in private equity or other private  
68 investment partnerships or limited liability companies shall be  
69 included as a part of the cost of the investment.

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

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

75 3. Real property acquired under the provisions of this  
76 paragraph is shall not be considered state lands or public lands  
77 and property as defined in chapter 253, and the provisions of  
78 that chapter do not apply to such real property.

79 (3) With no more than 80 percent of any fund in equity  
80 securities or securities convertible into equity securities of  
81 any entity ~~common stock, preferred stock, and interest-bearing~~  
82 obligations of a corporation having an option to convert into  
83 common stock, provided:

84 (a) The entity ~~corporation~~ is organized under the laws of  
85 the United States, any state or organized territory of the  
86 United States, or the District of Columbia; or

87 (b) The entity ~~corporation~~ is listed on any one or more of

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88 the recognized national stock exchanges in the United States and  
89 conforms with the periodic reporting requirements under the  
90 Securities Exchange Act of 1934;~~-~~

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

93  
94 The board ~~is shall~~ not to invest more than 10 percent of the  
95 equity assets of any fund in the equity securities ~~common stock,~~  
96 ~~preferred stock, and interest bearing obligations having an~~  
97 ~~option to convert into common stock,~~ of any one issuing entity  
98 ~~corporation~~; and the board ~~is shall~~ not to invest more than 3  
99 percent of the equity assets of any fund in such securities of  
100 any one issuing entity ~~corporation~~ except to the extent a higher  
101 percentage of the same issue is included in a nationally  
102 recognized market index, based on market values, at least as  
103 broad as the Standard and Poor's Composite Index of 500  
104 Companies, or except upon a specific finding by the board that  
105 such higher percentage is in the best interest of the fund.

106 (6) With no more than 5 percent of any fund to be invested  
107 as deemed appropriate by the board, notwithstanding investment  
108 limitations otherwise expressed in this section. ~~Before~~ Prior to  
109 the board engages ~~engaging~~ in any investment activity not  
110 otherwise authorized under ss. 215.44-215.53, excluding  
111 investments in publicly traded securities, options, financial  
112 futures, or similar instruments, the board shall present to the  
113 Investment Advisory Council a proposed plan for such investment.  
114 The ~~Said~~ plan must ~~shall~~ include, but is not ~~be~~ limited to, a  
115 detailed analysis of the investment, the expected benefits and  
116 potential risks of such activity, and ~~the~~ methods for

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117 monitoring and measuring the performance of the investment; ~~a~~  
118 ~~complete description of the type, nature, extent and purpose of~~  
119 ~~the investment, including description of issuer, security in~~  
120 ~~which investment is proposed to be made, voting rights or lack~~  
121 ~~thereof and control to be acquired, restrictions upon voting,~~  
122 ~~transfer, and other material rights of ownership, and the~~  
123 ~~existence of any contracts, arrangements, understandings, or~~  
124 ~~relationships with any person or entity (naming the same) with~~  
125 ~~respect to the proposed investment; and assurances that~~  
126 ~~sufficient investment expertise is available to the board to~~  
127 ~~properly evaluate and manage such activity. The Investment~~  
128 ~~Advisory Council may obtain independent investment counsel to~~  
129 ~~provide expert advice with regard to such proposed investment~~  
130 ~~activity by the board, and the board shall defray such costs.~~

131 (10) (a) Investments made by the State Board of  
132 Administration must ~~shall~~ be designed to maximize the financial  
133 return to the fund consistent with the risks incumbent in each  
134 investment and must ~~shall~~ be designed to preserve an appropriate  
135 diversification of the portfolio.

136 (b) The board shall discharge its duties with respect to a  
137 plan solely in the interest of its participants and  
138 beneficiaries. The board in performing the above investment  
139 duties shall comply with the fiduciary standards set forth in  
140 the Employee Retirement Income Security Act of 1974 at 29 U.S.C.  
141 s. 1104(a)(1)(A) through (C).

142 (c) The board's evaluation of an investment may be based  
143 only on pecuniary factors, and the board may not subordinate the  
144 interests of the participants and beneficiaries to other  
145 objectives and may not sacrifice investment return or take on

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146 additional investment risk to promote non-pecuniary benefits or  
147 goals. The weight given to any pecuniary factor by the board  
148 must appropriately reflect a prudent assessment of its impact on  
149 risk and returns. As used in this paragraph, the term "pecuniary  
150 factor" means a factor that the board prudently determines is  
151 expected to have a material effect on the risk or return of an  
152 investment, based on appropriate investment horizons consistent  
153 with the fund's investment objectives and funding policy.

154 (d) In the event of any conflict between paragraphs (b) and  
155 (c), paragraph (c) shall prevail. In case of conflict with other  
156 provisions of law authorizing investments, the investment and  
157 fiduciary standards set forth in this subsection shall prevail.

158 (15) With no more, in the aggregate, than 30 ~~20~~ percent of  
159 any fund in alternative investments through participation in an  
160 alternative investment vehicle as those terms are defined in s.  
161 215.4401(3)(a), or in securities or investments that are not  
162 publicly traded and not otherwise authorized by this section.  
163 The State Board of Administration and its affiliated limited  
164 liability entities, which the board may create, own, and use to  
165 hold investments and for such other purposes as it deems  
166 appropriate, may issue securities and borrow money through loans  
167 or other financial obligations, including bonds, equity  
168 securities, or other security instruments, any of which may be  
169 unsecured, or secured by investments made which are authorized  
170 under this subsection or related cash flows, guaranteed by the  
171 related fund, or governed by financial covenants.

172 Section 2. For the purpose of incorporating the amendments  
173 made by this act to section 215.47, Florida Statutes, in a  
174 reference thereto, paragraph (a) of subsection (5) of section

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175 112.661, Florida Statutes, is reenacted to read:

176 112.661 Investment policies.—Investment of the assets of  
177 any local retirement system or plan must be consistent with a  
178 written investment policy adopted by the board. Such policies  
179 shall be structured to maximize the financial return to the  
180 retirement system or plan consistent with the risks incumbent in  
181 each investment and shall be structured to establish and  
182 maintain an appropriate diversification of the retirement system  
183 or plan's assets.

184 (5) AUTHORIZED INVESTMENTS.—

185 (a) The investment policy shall list investments authorized  
186 by the board. Investments not listed in the investment policy  
187 are prohibited. Unless otherwise authorized by law or ordinance,  
188 the investment of the assets of any local retirement system or  
189 plan covered by this part shall be subject to the limitations  
190 and conditions set forth in s. 215.47(1)-(6), (8), (9), (11) and  
191 (17).

192 Section 3. For the purpose of incorporating the amendments  
193 made by this act to section 215.47, Florida Statutes, in a  
194 reference thereto, paragraph (a) of subsection (2) of section  
195 218.409, Florida Statutes, is reenacted to read:

196 218.409 Administration of the trust fund.—

197 (2) (a) The trustees shall ensure that the board or a  
198 professional money management firm administers the trust fund on  
199 behalf of the participants. The board or a professional money  
200 management firm shall have the power to invest such funds in  
201 accordance with a written investment policy. The investment  
202 policy shall be updated annually to conform to best investment  
203 practices. The standard of prudence to be used by investment

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204 officials shall be the fiduciary standards as set forth in s.  
205 215.47(10), which shall be applied in the context of managing an  
206 overall portfolio. Portfolio managers acting in accordance with  
207 written procedures and an investment policy and exercising due  
208 diligence shall be relieved of personal responsibility for an  
209 individual security's credit risk or market price changes,  
210 provided deviations from expectations are reported in a timely  
211 fashion and the liquidity and the sale of securities are carried  
212 out in accordance with the terms of this part.

213 Section 4. For the purpose of incorporating the amendments  
214 made by this act to section 215.47, Florida Statutes, in a  
215 reference thereto, paragraph (a) of subsection (3) of section  
216 420.503, Florida Statutes, is reenacted to read:

217 420.503 Definitions.—As used in this part, the term:

218 (3) "Authorized investments" means any of the following  
219 securities:

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

222 Section 5. For the purpose of incorporating the amendments  
223 made by this act to section 215.47, Florida Statutes, in a  
224 reference thereto, paragraph (e) of subsection (4) of section  
225 1002.36, Florida Statutes, is reenacted to read:

226 1002.36 Florida School for the Deaf and the Blind.—

227 (4) BOARD OF TRUSTEES.—

228 (e) The board of trustees is invested with full power and  
229 authority to:

230 1. Appoint a president, faculty, teachers, and other  
231 employees and remove the same as in its judgment may be best and  
232 fix their compensation.



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- 233           2. Procure professional services, such as medical, mental  
234 health, architectural, and engineering.
- 235           3. Procure legal services without the prior written  
236 approval of the Attorney General.
- 237           4. Determine eligibility of students and procedure for  
238 admission.
- 239           5. Provide for the students of the school necessary  
240 bedding, clothing, food, and medical attendance and such other  
241 things as may be proper for the health and comfort of the  
242 students without cost to their parents, except that the board of  
243 trustees may set tuition and other fees for nonresidents.
- 244           6. Provide for the proper keeping of accounts and records  
245 and for budgeting of funds.
- 246           7. Enter into contracts.
- 247           8. Sue and be sued.
- 248           9. Secure public liability insurance.
- 249           10. Do and perform every other matter or thing requisite to  
250 the proper management, maintenance, support, and control of the  
251 school at the highest efficiency economically possible, the  
252 board of trustees taking into consideration the purposes of the  
253 establishment.
- 254           11. Receive gifts, donations, and bequests of money or  
255 property, real or personal, tangible or intangible, from any  
256 person, firm, corporation, or other legal entity. However, the  
257 board of trustees may not obligate the state to any expenditure  
258 or policy that is not specifically authorized by law. If the  
259 bill of sale, will, trust indenture, deed, or other legal  
260 conveyance specifies terms and conditions concerning the use of  
261 such money or property, the board of trustees shall observe such

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262 terms and conditions.

263       12. Deposit outside the State Treasury such moneys as are  
264 received as gifts, donations, or bequests and may disburse and  
265 expend such moneys, upon its own warrant, for the use and  
266 benefit of the Florida School for the Deaf and the Blind and its  
267 students, as the board of trustees deems to be in the best  
268 interest of the school and its students. Such money or property  
269 does not constitute and may not be considered a part of any  
270 legislative appropriation.

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

276       14. Invest such moneys in securities enumerated under s.  
277 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund,  
278 an Investment Management Fund exclusively for nonprofit  
279 educational institutions.

280       15. After receiving approval from the Administration  
281 Commission, exercise the power of eminent domain in the manner  
282 provided in chapter 73 or chapter 74.

283       Section 6. This act shall take effect July 1, 2023.