

1 A bill to be entitled
2 An act relating to the State Board of Administration;
3 amending s. 121.091, F.S.; prohibiting the State Board
4 of Administration from paying benefits to an
5 investment plan member convicted of specified
6 felonies; requiring the state board to return
7 accumulated contributions to a member up to the date
8 of conviction; prohibiting the state board from paying
9 benefits until the resolution of the proceedings of
10 any potentially disqualifying offenses; amending s.
11 121.4501, F.S.; authorizing the state board to develop
12 investment products to be offered in the investment
13 plan; revising the process for a member's spouse to
14 acknowledge that he or she is not the primary
15 beneficiary of the member's benefits; authorizing a
16 member to request a waiver of such acknowledgment
17 under certain circumstances; amending s. 215.47, F.S.;
18 revising the types of investments in real property and
19 related personal property which the state board may
20 make; authorizing the board and certain affiliated
21 entities and ventures to issue securities and borrow
22 money through specified means; authorizing the state
23 board to use the proceeds of loans or financing
24 obligations as loans to or sources of funding for
25 certain entities or ventures; requiring the ownership

26 of an entity holding title to real property to be
 27 vested in the name of the Florida Retirement System
 28 Trust Fund; revising the funds in which the state may
 29 invest no more than 80 percent of its moneys available
 30 for investments; revising the requirements of the
 31 proposed plan the state board must present to the
 32 Investment Advisory Council to invest in unauthorized
 33 investments; deleting authorization for the council to
 34 obtain independent investment counsel to provide
 35 expert advice on board investment activity; revising
 36 the threshold for the amount of the fund which may be
 37 invested in alternative investments; authorizing the
 38 board and certain affiliated entities to issue
 39 securities and borrow money through specified means;
 40 providing an effective date.

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42 Be It Enacted by the Legislature of the State of Florida:

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

46 121.091 Benefits payable under the system.—Benefits may
 47 not be paid under this section unless the member has terminated
 48 employment as provided in s. 121.021(39) (a) or begun
 49 participation in the Deferred Retirement Option Program as
 50 provided in subsection (13), and a proper application has been

51 | filed in the manner prescribed by the department. The department
52 | may cancel an application for retirement benefits when the
53 | member or beneficiary fails to timely provide the information
54 | and documents required by this chapter and the department's
55 | rules. The department shall adopt rules establishing procedures
56 | for application for retirement benefits and for the cancellation
57 | of such application when the required information or documents
58 | are not received.

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

69 | (i) The division or the state board may not pay benefits
70 | to any member convicted of a felony committed on or after
71 | October 1, 2008, defined in s. 800.04 against a victim younger
72 | than 16 years of age, or defined in chapter 794 against a victim
73 | younger than 18 years of age, through the use or attempted use
74 | of power, rights, privileges, duties, or position of the
75 | member's public office or employment position. However, the

76 | division or the state board shall return the member's
 77 | accumulated contributions, if any, that the member accumulated
 78 | as of the date of conviction.

79 | (k) Benefits shall not be paid by the division or the
 80 | state board pending final resolution of such charges against a
 81 | member or beneficiary if the resolution of such charges could
 82 | require the forfeiture of benefits as provided in paragraph (f),
 83 | paragraph (g), paragraph (h), paragraph (i), ~~or~~ paragraph (j),
 84 | or chapter 112.

85 | Section 2. Paragraph (b) of subsection (20) of section
 86 | 121.4501, Florida Statutes, is amended, and paragraph (h) is
 87 | added to subsection (8) of that section, to read:

88 | 121.4501 Florida Retirement System Investment Plan.—

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

96 | Acknowledgment of an employee's election to participate in the
 97 | program shall be no greater than necessary to confirm the
 98 | employee's election. The state board shall adopt rules to carry
 99 | out its statutory duties with respect to administering the
 100 | investment plan, including establishing the roles and

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101 responsibilities of affected state, local government, and
102 education-related employers, the state board, the department,
103 and third-party contractors. The department shall adopt rules
104 necessary to administer the investment plan in coordination with
105 the pension plan and the disability benefits available under the
106 investment plan.

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

110 (20) DESIGNATION OF BENEFICIARIES.—

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

125 Section 3. Paragraph (e) of subsection (2) and subsections

126 (3), (6), and (15) of section 215.47, Florida Statutes, are
127 amended to read:

128 215.47 Investments; authorized securities; loan of
129 securities.—Subject to the limitations and conditions of the
130 State Constitution or of the trust agreement relating to a trust
131 fund, moneys available for investments under ss. 215.44-215.53
132 may be invested as follows:

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

134 (e) Certain interests in real property and related
135 personal property that may be owned through affiliated limited
136 liability entities or joint ventures, which include, but are not
137 limited to, including mortgages and related instruments secured
138 by ~~on commercial or industrial~~ real property, and instruments
139 containing with provisions for equity or income participation or
140 with provisions for convertibility to equity ownership; and
141 interests in real property-related collective investment funds.
142 The State Board of Administration and its affiliated limited
143 liability entities or joint ventures may issue securities and
144 borrow money through loans or other financial obligations,
145 including bonds, equity securities, and other security
146 instruments, any of which may be unsecured, or secured by
147 investments in real property or related cash flows, guaranteed
148 by the related fund, or governed by financial covenants. The
149 proceeds of such loans or financing obligations may be loaned to
150 or otherwise used as a source of funding for affiliated limited

151 liability entities or joint ventures. Associated expenditures
 152 for acquisition and operation of assets purchased under this
 153 provision or of investments in private equity or other private
 154 investment partnerships or limited liability companies shall be
 155 included as a part of the cost of the investment.

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

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

161 3. Real property acquired under the provisions of this
 162 paragraph shall not be considered state lands or public lands
 163 and property as defined in chapter 253, and the provisions of
 164 that chapter do not apply to such real property.

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

170 (a) The entity ~~corporation~~ is organized under the laws of
 171 the United States, any state or organized territory of the
 172 United States, or the District of Columbia; ~~or~~

173 (b) The entity ~~corporation~~ is listed on any one or more of
 174 the recognized national stock exchanges in the United States and
 175 conforms with the periodic reporting requirements under the

176 Securities Exchange Act of 1934; or-

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

179
 180 The board shall not invest more than 10 percent of the equity
 181 assets of any fund in the equity securities ~~common stock,~~
 182 ~~preferred stock, and interest-bearing obligations having an~~
 183 ~~option to convert into common stock,~~ of any one issuing entity
 184 ~~corporation~~; and the board shall not invest more than 3 percent
 185 of the equity assets of any fund in such securities of any one
 186 issuing entity ~~corporation~~ except to the extent a higher
 187 percentage of the same issue is included in a nationally
 188 recognized market index, based on market values, at least as
 189 broad as the Standard and Poor's Composite Index of 500
 190 Companies, or except upon a specific finding by the board that
 191 such higher percentage is in the best interest of the fund.

192 (6) With no more than 5 percent of any fund to be invested
 193 as deemed appropriate by the board, notwithstanding investment
 194 limitations otherwise expressed in this section. Prior to the
 195 board engaging in any investment activity not otherwise
 196 authorized under ss. 215.44-215.53, excluding investments in
 197 publicly traded securities, options, financial futures, or
 198 similar instruments, the board shall present to the Investment
 199 Advisory Council a proposed plan for such investment. Said plan
 200 shall include, but not be limited to, a detailed analysis of the

201 investment, the expected benefits and potential risks of such
202 activity, and the methods for monitoring and measuring the
203 ~~performance of the investment; a complete description of the~~
204 ~~type, nature, extent and purpose of the investment, including~~
205 ~~description of issuer, security in which investment is proposed~~
206 ~~to be made, voting rights or lack thereof and control to be~~
207 ~~acquired, restrictions upon voting, transfer, and other material~~
208 ~~rights of ownership, and the existence of any contracts,~~
209 ~~arrangements, understandings, or relationships with any person~~
210 ~~or entity (naming the same) with respect to the proposed~~
211 ~~investment; and assurances that sufficient investment expertise~~
212 ~~is available to the board to properly evaluate and manage such~~
213 ~~activity. The Investment Advisory Council may obtain independent~~
214 ~~investment counsel to provide expert advice with regard to such~~
215 ~~proposed investment activity by the board, and the board shall~~
216 ~~defray such costs.~~

217 (15) With no more, in the aggregate, than 30 ~~20~~ percent of
218 any fund in alternative investments through participation in an
219 alternative investment vehicle as those terms are defined in s.
220 215.4401(3)(a), or in securities or investments that are not
221 publicly traded and not otherwise authorized by this section.
222 The State Board of Administration and its affiliated limited
223 liability entities, which the board may create, own, and use to
224 hold investments and for such other purposes as it deems
225 appropriate, may issue securities and borrow money through loans

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226 | or other financial obligations, including bonds, equity
227 | securities, or other security instruments, any of which may be
228 | unsecured, or secured by investments made which are authorized
229 | under this subsection or related cash flows, guaranteed by the
230 | related fund, or governed by financial covenants.

231 | Section 4. This act shall take effect upon becoming a law.