

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

26 | the ownership of an entity holding title to real
27 | property to be vested in the name of the Florida
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; amending s. 215.4725, F.S.; amending the
39 | definition of the terms "boycott Israel" or "boycott
40 | of Israel"; requiring the public fund to notify
41 | certain companies it places on the Scrutinized
42 | Companies that Boycott Israel List that they may be
43 | subject to divestment; providing a timeframe for the
44 | public fund's divestment from companies that boycott
45 | Israel, and processes for the companies'
46 | reintroduction on the Scrutinized Companies that
47 | Boycott Israel List in certain circumstances;
48 | authorizing the public fund to cease its divestment
49 | from or reinvest in certain scrutinized companies if
50 | the value of all assets under management by the public

51 fund becomes equal to or less than a specified amount,
 52 pursuant to specified procedures; reenacting ss.
 53 112.661(5)(a), 420.503(3)(a), and 1002.36(4)(e), F.S.,
 54 relating to authorized investments, the definition of
 55 "authorized investments", and investments made on
 56 behalf of the Florida School for the Deaf and the
 57 Blind, respectively, to incorporate the amendments
 58 made to s. 215.47, F.S., in references thereto;
 59 providing an effective date.

60

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

62

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

65 121.091 Benefits payable under the system.—Benefits may
 66 not be paid under this section unless the member has terminated
 67 employment as provided in s. 121.021(39)(a) or begun
 68 participation in the Deferred Retirement Option Program as
 69 provided in subsection (13), and a proper application has been
 70 filed in the manner prescribed by the department. The department
 71 may cancel an application for retirement benefits when the
 72 member or beneficiary fails to timely provide the information
 73 and documents required by this chapter and the department's
 74 rules. The department shall adopt rules establishing procedures
 75 for application for retirement benefits and for the cancellation

76 | of such application when the required information or documents
77 | are not received.

78 | (5) TERMINATION BENEFITS.—A member whose employment is
79 | terminated prior to retirement retains membership rights to
80 | previously earned member-noncontributory service credit, and to
81 | member-contributory service credit, if the member leaves the
82 | member contributions on deposit in his or her retirement
83 | account. If a terminated member receives a refund of member
84 | contributions, such member may reinstate membership rights to
85 | the previously earned service credit represented by the refund
86 | by completing 1 year of creditable service and repaying the
87 | refunded member contributions, plus interest.

88 | (i) The division or the state board may not pay benefits
89 | to any member convicted of a felony committed on or after
90 | October 1, 2008, defined in s. 800.04 against a victim younger
91 | than 16 years of age, or defined in chapter 794 against a victim
92 | younger than 18 years of age, through the use or attempted use
93 | of power, rights, privileges, duties, or position of the
94 | member's public office or employment position. However, the
95 | division or the state board shall return the member's
96 | accumulated contributions, if any, that the member accumulated
97 | as of the date of conviction.

98 | (k) Benefits may ~~shall~~ not be paid by the division or the
99 | state board pending final resolution of such charges against a
100 | member or beneficiary if the resolution of such charges could

101 require the forfeiture of benefits as provided in paragraph (f),
102 paragraph (g), paragraph (h), paragraph (i), ~~or~~ paragraph (j),
103 or chapter 112.

104 Section 2. Paragraph (b) of subsection (20) of section
105 121.4501, Florida Statutes, is amended, and paragraph (h) is
106 added to subsection (8) of that section, to read:

107 121.4501 Florida Retirement System Investment Plan.—

108 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
109 shall be administered by the state board and affected employers.
110 The state board may require oaths, by affidavit or otherwise,
111 and acknowledgments from persons in connection with the
112 administration of its statutory duties and responsibilities for
113 the investment plan. An oath, by affidavit or otherwise, may not
114 be required of a member at the time of enrollment.

115 Acknowledgment of an employee's election to participate in the
116 program shall be no greater than necessary to confirm the
117 employee's election. The state board shall adopt rules to carry
118 out its statutory duties with respect to administering the
119 investment plan, including establishing the roles and
120 responsibilities of affected state, local government, and
121 education-related employers, the state board, the department,
122 and third-party contractors. The department shall adopt rules
123 necessary to administer the investment plan in coordination with
124 the pension plan and the disability benefits available under the
125 investment plan.

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

129 (20) DESIGNATION OF BENEFICIARIES.—

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

144 Section 3. Paragraph (e) of subsection (2) and subsections
 145 (3), (6), and (15) of section 215.47, Florida Statutes, are
 146 amended to read:

147 215.47 Investments; authorized securities; loan of
 148 securities.—Subject to the limitations and conditions of the
 149 State Constitution or of the trust agreement relating to a trust
 150 fund, moneys available for investments under ss. 215.44-215.53

151 may be invested as follows:

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

153 (e) Certain interests in real property and related

154 personal property which may be owned through affiliated limited

155 liability entities or joint ventures, which include, but are not

156 limited to, including mortgages and related instruments secured

157 by ~~on commercial or industrial~~ real property, and instruments

158 containing ~~with~~ provisions for equity or income participation or

159 with provisions for convertibility to equity ownership; and

160 interests in real property-related collective investment funds.

161 The State Board of Administration and its affiliated limited

162 liability entities or joint ventures may issue securities and

163 borrow money through loans or other financial obligations,

164 including bonds, equity securities, and other security

165 instruments, any of which may be unsecured or secured by

166 investments in real property or related cash flows, guaranteed

167 by the related fund, or governed by financial covenants. The

168 proceeds of such loans or financing obligations may be loaned to

169 or otherwise used as a source of funding for affiliated limited

170 liability entities or joint ventures. Associated expenditures

171 for acquisition and operation of assets purchased under this

172 provision or of investments in private equity or other private

173 investment partnerships or limited liability companies must

174 ~~shall~~ be included as a part of the cost of the investment.

175 1. The title to real property, or ownership of the entity

176 holding title to real property, acquired under this paragraph
 177 shall be vested in the name of the respective fund.

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

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

184 (3) With no more than 80 percent of any fund in equity
 185 securities or securities convertible into equity securities of
 186 any entity ~~common stock, preferred stock, and interest-bearing~~
 187 ~~obligations of a corporation having an option to convert into~~
 188 ~~common stock,~~ provided that all of the following apply:

189 (a) That the entity is either:

190 1. ~~The corporation is~~ Organized under the laws of the
 191 United States, any state or organized territory of the United
 192 States, or the District of Columbia; or

193 2. ~~(b) The corporation is~~ Listed on any one or more of the
 194 recognized national stock exchanges in the United States and
 195 conforms with the periodic reporting requirements under the
 196 Securities Exchange Act of 1934.

197 ~~(b)(e)~~ Not more than 75 percent of the fund may be in
 198 internally managed equity securities ~~common stock~~.

199
 200 The board may ~~shall~~ not invest more than 10 percent of the

201 equity assets of any fund in the equity securities ~~common stock,~~
 202 ~~preferred stock, and interest-bearing obligations having an~~
 203 ~~option to convert into common stock,~~ of any one issuing entity
 204 ~~corporation;~~ and the board may ~~shall~~ not invest more than 3
 205 percent of the equity assets of any fund in such securities of
 206 any one issuing entity ~~corporation~~ except to the extent a higher
 207 percentage of the same issue is included in a nationally
 208 recognized market index, based on market values, at least as
 209 broad as the Standard and Poor's Composite Index of 500
 210 Companies, or except upon a specific finding by the board that
 211 such higher percentage is in the best interest of the fund.

212 (6) With no more than 5 percent of any fund to be invested
 213 as deemed appropriate by the board, notwithstanding investment
 214 limitations otherwise expressed in this section. Before ~~Prior to~~
 215 the board engages ~~engaging~~ in any investment activity not
 216 otherwise authorized under ss. 215.44-215.53, excluding
 217 investments in publicly traded securities, options, financial
 218 futures, or similar instruments, the board shall present to the
 219 Investment Advisory Council a proposed plan for such investment.
 220 Such ~~Said~~ plan must ~~shall~~ include, but not be limited to, a
 221 detailed analysis of the investment, the expected benefits and
 222 potential risks of such activity, and the ~~the~~ methods for
 223 monitoring and measuring the performance of the investment; ~~a~~
 224 ~~complete description of the type, nature, extent and purpose of~~
 225 ~~the investment, including description of issuer, security in~~

226 ~~which investment is proposed to be made, voting rights or lack~~
 227 ~~thereof and control to be acquired, restrictions upon voting,~~
 228 ~~transfer, and other material rights of ownership, and the~~
 229 ~~existence of any contracts, arrangements, understandings, or~~
 230 ~~relationships with any person or entity (naming the same) with~~
 231 ~~respect to the proposed investment; and assurances that~~
 232 ~~sufficient investment expertise is available to the board to~~
 233 ~~properly evaluate and manage such activity. The Investment~~
 234 ~~Advisory Council may obtain independent investment counsel to~~
 235 ~~provide expert advice with regard to such proposed investment~~
 236 ~~activity by the board, and the board shall defray such costs.~~

237 (15) With no more, in the aggregate, than 30 ~~20~~ percent of
 238 any fund in alternative investments through participation in an
 239 alternative investment vehicle as those terms are defined in s.
 240 215.4401(3)(a), or in securities or investments that are not
 241 publicly traded and not otherwise authorized by this section.

242 Section 4. Paragraph (a) of subsection (1), subsection
 243 (3), paragraph (b) of subsection (4), and subsection (6) of
 244 section 215.4725, Florida Statutes, are amended to read:

245 215.4725 Prohibited investments by the State Board of
 246 Administration; companies that boycott Israel.-

247 (1) DEFINITIONS.—As used in this section, the term:

248 (a) "Boycott Israel" or "boycott of Israel" means refusing
 249 to deal, terminating business activities, or taking other
 250 actions to limit commercial relations with Israel, or persons or

251 entities doing business in Israel or in Israeli-controlled
252 territories, in a discriminatory manner. A statement by a
253 company that it is participating in a boycott of Israel, or that
254 it has initiated a boycott in response to a request for a
255 boycott of Israel or in compliance with, or in furtherance of,
256 calls for a boycott of Israel, may be considered by the State
257 Board of Administration to be evidence that a company is
258 participating in a boycott of Israel. The term includes taking
259 adverse action, including changes to published commercial
260 financial ratings, risk ratings, and controversy ratings based
261 on nonpecuniary factors, to inflict economic harm on Israel or
262 persons or entities doing business in Israel or in Israeli-
263 controlled territories. The term includes trade practices that
264 are prohibited by federal regulations issued in compliance with
265 50 U.S.C. s. 4842 and does not include trade practices that are
266 preempted by federal law. ~~The term does not include restrictive~~
267 ~~trade practices or boycotts fostered or imposed by foreign~~
268 ~~countries against Israel.~~

269 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
270 following procedures for assembling companies on the Scrutinized
271 Companies that Boycott Israel List.

272 (a) Engagement.—

273 1. The public fund shall immediately determine the
274 companies on the Scrutinized Companies that Boycott Israel List
275 in which the public fund owns direct or indirect holdings.

276 2. For each company newly identified under this paragraph,
 277 the public fund shall send a written notice informing the
 278 company of its scrutinized company status and that it may become
 279 subject to investment prohibition or divestment by the public
 280 fund. The notice must inform the company of the opportunity to
 281 clarify its activities regarding the boycott of Israel and
 282 encourage the company to cease the boycott of Israel within 90
 283 days in order to avoid qualifying for investment prohibition or
 284 divestment.

285 3. If, within 90 days after the public fund's first
 286 engagement with a company pursuant to this paragraph, the
 287 company ceases a boycott of Israel, the company shall be removed
 288 from the Scrutinized Companies that Boycott Israel List, and the
 289 provisions of this section shall cease to apply to that company
 290 unless that company resumes a boycott of Israel.

291 (b) Divestment.-

292 1. If, after 90 days following the public fund's first
 293 engagement with a company pursuant to paragraph (a), the company
 294 continues to boycott Israel, the public fund must sell, redeem,
 295 divest, or withdraw all publicly traded securities of the
 296 company from the public fund within 12 months after the
 297 company's most recent appearance on the Scrutinized Companies
 298 that Boycott Israel List.

299 2. If a company that ceased a boycott of Israel following
 300 engagement pursuant to paragraph (a) resumes such activities,

301 this paragraph immediately applies, and the public fund must
 302 send a written notice to the company. The company shall also be
 303 immediately reintroduced onto the Scrutinized Companies that
 304 Boycott Israel List, as applicable.

305 (c)-(b) Prohibition.—The public fund is prohibited from
 306 acquiring ~~may not acquire~~ securities of companies on the
 307 Scrutinized Companies that Boycott Israel List, except as
 308 provided in paragraph (d)-(e) and subsection (6).

309 (d)-(e) Excluded securities.—Notwithstanding the provisions
 310 of this section, paragraphs (b) and (c) do ~~paragraph (b) does~~
 311 not apply to:

312 1. Indirect holdings. However, the public fund shall
 313 submit letters to the managers of such investment funds
 314 containing companies that boycott Israel requesting that they
 315 consider removing such companies from the fund or create a
 316 similar fund having indirect holdings devoid of such companies.
 317 If the manager creates a similar fund, the public fund shall
 318 replace all applicable investments with investments in the
 319 similar fund in an expedited timeframe consistent with prudent
 320 investing standards. For the purposes of this section, an
 321 alternative investment, as the term is defined in s. 215.4401,
 322 and securities that are not publicly traded are deemed to be
 323 indirect holdings.

324 2. Exchange-traded funds.

325 (4) REPORTING.—

326 (b) At each quarterly meeting of the Board of Trustees
 327 thereafter, the public fund shall file a report, which shall be
 328 made available to the public and to each member of the Board of
 329 Trustees of the State Board of Administration, the President of
 330 the Senate, and the Speaker of the House of Representatives,
 331 which includes:

332 1. A summary of correspondence with companies engaged by
 333 the public fund under subsection (3) ~~subparagraph (3)(a)2.~~;

334 2. All investments sold, redeemed, divested, or withdrawn
 335 in compliance with paragraph (3)(b);

336 3.2. All prohibited investments under paragraph (3) (c) ~~(b)~~;

337 4.3. Any progress made under paragraph (3) (d) ~~(e)~~; and

338 5.4. A list of all publicly traded securities held
 339 directly by the public fund.

340 (6) INVESTMENT AND REINVESTMENT IN CERTAIN SCRUTINIZED
 341 COMPANIES.—Notwithstanding any other provision of this section,
 342 the public fund may invest in, cease divestment from, or
 343 reinvest in, certain scrutinized companies if clear and
 344 convincing evidence shows that the value of all assets under
 345 management by the public fund becomes equal to or less than
 346 99.50 percent, or 50 basis points, of the hypothetical value of
 347 all assets under management by the public fund, assuming no
 348 investment prohibition or divestment for any company had
 349 occurred under subsection (3) ~~paragraph (3)(b)~~. Cessation of the
 350 investment prohibition or divestment, reinvestment, or ~~and~~ any

351 new investment in a scrutinized company is limited to the
 352 minimum steps necessary to avoid the contingency described in
 353 this subsection. For any cessation of the investment prohibition
 354 or divestment, reinvestment, or ~~and~~ new investment authorized by
 355 this subsection, the public fund shall provide a written report
 356 to each member of the Board of Trustees of the State Board of
 357 Administration, the President of the Senate, and the Speaker of
 358 the House of Representatives in advance of the cessation of
 359 investment prohibition or divestment, reinvestment, or new
 360 investment, updated semiannually thereafter as applicable,
 361 setting forth the reasons and justification, supported by clear
 362 and convincing evidence, for its decisions to cease the
 363 investment prohibition or divestment, or to reinvest in
 364 scrutinized companies.

365 Section 5. For the purpose of incorporating the amendments
 366 made by this act to section 215.47, Florida Statutes, in a
 367 reference thereto, paragraph (a) of subsection (5) of section
 368 112.661, Florida Statutes, is reenacted to read:

369 112.661 Investment policies.—Investment of the assets of
 370 any local retirement system or plan must be consistent with a
 371 written investment policy adopted by the board. Such policies
 372 shall be structured to maximize the financial return to the
 373 retirement system or plan consistent with the risks incumbent in
 374 each investment and shall be structured to establish and
 375 maintain an appropriate diversification of the retirement system

376 | or plan's assets.

377 | (5) AUTHORIZED INVESTMENTS.—

378 | (a) The investment policy shall list investments
 379 | authorized by the board. Investments not listed in the
 380 | investment policy are prohibited. Unless otherwise authorized by
 381 | law or ordinance, the investment of the assets of any local
 382 | retirement system or plan covered by this part shall be subject
 383 | to the limitations and conditions set forth in s. 215.47(1)-(6),
 384 | (8), (9), (11) and (17).

385 | Section 6. For the purpose of incorporating the amendments
 386 | made by this act to section 215.47, Florida Statutes, in a
 387 | reference thereto, paragraph (a) of subsection (3) of section
 388 | 420.503, Florida Statutes, is reenacted to read:

389 | 420.503 Definitions.—As used in this part, the term:

390 | (3) "Authorized investments" means any of the following
 391 | securities:

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

394 | Section 7. For the purpose of incorporating the amendments
 395 | made by this act to section 215.47, Florida Statutes, in a
 396 | reference thereto, paragraph (e) of subsection (4) of section
 397 | 1002.36, Florida Statutes, is reenacted to read:

398 | 1002.36 Florida School for the Deaf and the Blind.—

399 | (4) BOARD OF TRUSTEES.—

400 | (e) The board of trustees is invested with full power and

401 authority to:

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

405 2. Procure professional services, such as medical, mental
406 health, architectural, and engineering.

407 3. Procure legal services without the prior written
408 approval of the Attorney General.

409 4. Determine eligibility of students and procedure for
410 admission.

411 5. Provide for the students of the school necessary
412 bedding, clothing, food, and medical attendance and such other
413 things as may be proper for the health and comfort of the
414 students without cost to their parents, except that the board of
415 trustees may set tuition and other fees for nonresidents.

416 6. Provide for the proper keeping of accounts and records
417 and for budgeting of funds.

418 7. Enter into contracts.

419 8. Sue and be sued.

420 9. Secure public liability insurance.

421 10. Do and perform every other matter or thing requisite
422 to the proper management, maintenance, support, and control of
423 the school at the highest efficiency economically possible, the
424 board of trustees taking into consideration the purposes of the
425 establishment.

426 11. Receive gifts, donations, and bequests of money or
 427 property, real or personal, tangible or intangible, from any
 428 person, firm, corporation, or other legal entity. However, the
 429 board of trustees may not obligate the state to any expenditure
 430 or policy that is not specifically authorized by law. If the
 431 bill of sale, will, trust indenture, deed, or other legal
 432 conveyance specifies terms and conditions concerning the use of
 433 such money or property, the board of trustees shall observe such
 434 terms and conditions.

435 12. Deposit outside the State Treasury such moneys as are
 436 received as gifts, donations, or bequests and may disburse and
 437 expend such moneys, upon its own warrant, for the use and
 438 benefit of the Florida School for the Deaf and the Blind and its
 439 students, as the board of trustees deems to be in the best
 440 interest of the school and its students. Such money or property
 441 does not constitute and may not be considered a part of any
 442 legislative appropriation.

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

448 14. Invest such moneys in securities enumerated under s.
 449 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund,
 450 an Investment Management Fund exclusively for nonprofit

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451 | educational institutions.

452 | 15. After receiving approval from the Administration
453 | Commission, exercise the power of eminent domain in the manner
454 | provided in chapter 73 or chapter 74.

455 | Section 8. This act shall take effect upon becoming a law.