HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 11-15 State Financial Matters
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Meadows	Williamson

SUMMARY ANALYSIS

The State Board of Administration (SBA or Board) is established by Article IV, Section 4(e) of the Florida Constitution, and is composed of the Governor, the Chief Financial Officer, and the Attorney General. The powers and duties of the Board include the management of 37 separate statutory investment portfolios, the largest one of which is the multi-employer Florida Retirement System. The SBA also manages a program for local government entities known as the Local Government Surplus Funds Trust Fund. This fund provides local government entities with a low-risk, low-cost opportunity to invest its funds.

The bill authorizes the SBA to invest the assets of government entities in the Local Government Surplus Funds Trust Fund upon the completion of enrollment materials supplied by the Board. A separate trust agreement is no longer needed to grant the Board the ability to invest the funds. The bill further provides that when there is a trust agreement the investments are only subject to the limitations or restrictions of the trust agreement.

In addition, the bill makes clarifying changes and corrects cross-references.

The bill has an effective date of July 1, 2011.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Board of Administration

The State Board of Administration (SBA or Board) is established by Article IV, Section 4(e) of the Florida Constitution, and is composed of the Governor as Chair, the Chief Financial Officer as Treasurer, and the Attorney General as Secretary. The Board members are commonly referred to as "Trustees." While the Florida Retirement System Pension Trust Fund represents about 80 percent of the assets under SBA management, the Board also manages 37 different funds, including the Florida Hurricane Catastrophe Fund, the Lawton Chiles Endowment Fund and the Local Government Surplus Funds Trust Fund.[1] The SBA must invest all the funds consistent with the cash requirements, trust agreements, and investment objectives of the fund.[2]

The SBA follows the Florida Statutes fiduciary standards of care while managing the Florida Retirement System (FRS) pension plan assets, subject to certain limitations. The SBA's ability to invest the FRS pension plan assets is subject to limitations imposed by a "legal list" of the types of investments and for how much of the total fund may be invested in each investment type.[3]

The Local Government Surplus Funds Trust Fund (Local Government Investment Pool or LGIP) was created by an act[4] of the Legislature, effective October 1, 1977. The SBA is charged with the powers and duties to administer and invest the eligible participant's[5] funds within the LGIP.[6] The LGIP is governed by Chapters 215 and 218, F.S., and Chapter 19-7, Florida Administrative Code.

The purpose of the LGIP is to help local governments maximize earnings on invested surplus funds and, with these earnings, reduce the need to impose additional taxes.[7] The primary objectives of the LGIP are "safety, liquidity, and competitive returns with minimization of risk."[8] This fund provides government entities with a low-risk, low-cost opportunity to invest its funds. To that end, the LGIP contains United States securities and money market instruments such as certificates of deposit,

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[1] State Board of Administration Investment Overview, January 12, 2011, at 3.
[2] Section 215.44(1), F.S.
[3] Section 215.47, F.S., provides the "legal list" of types of investments summarized as follows:

- No more than 80 percent of assets can be invested in domestic common stocks.
- No more than 75 percent of assets can be invested in internally managed common stocks.
- No more than 3 percent of equity assets can be invested in the equity securities of any one corporation, except when the securities of that corporation are included in any broad equity index or with approval of the Board; and in such case, no more than 10 percent of equity assets can be invested in the equity securities of any one corporation.
- No more than 80 percent of assets should be placed in corporate fixed income securities.
- No more than 25 percent of assets should be invested in notes secured by FHA- insured or VA-guaranteed first mortgages on Florida real property, or foreign government general obligations with a 25-year default free history.
- No more than 20 percent of assets should be invested in foreign corporate or commercial securities or obligations.
- No more than 5 percent of any fund should be invested in private equity through participation in limited partnerships and limited liability companies.
- No more than 25 percent of assets can be invested in foreign securities.

[4] Chapter 218, Part IV, F.S.
[5] *Eligible participants* include any county, municipality, school district, special district, clerk of the circuit court, sheriff, property appraiser, tax collector, supervisor of elections, state university, state college, community college, authority, board, public corporations, or any other political subdivision or direct support organization of the state. State Board of Administration Investment Overview, January 11, 2011, at 13.
[6] Section 215.47(9), F.S.
[7] *Local Government Surplus Funds Trust Fund*, Government Program Summaries, Office of Program Policy Analysis and Government Accountability, May 4, 2010.
[8] Section 218.405(2), F.S.

commercial paper, bankers' acceptances, repurchase agreements, and selected corporate short-term obligations.[9] The LGIP currently oversees the funds of 810 local governments and school districts.[10] The total current assets of the LGIP are $7.02 billion, as of March 17, 2011.

The SBA is currently permitted to invest assets for other governmental entities if directed by law or though a trust agreement with the entity that outlines the investment agreement.[11]

Effect of Proposed Changes

The bill authorizes the SBA to invest the assets of participating government entities in the Local Government Surplus Funds Trust Fund after the entity completes LGIP enrollment materials. A separate trust agreement is no longer needed by the SBA to manage and invest funds in the LGIP.

In addition, the bill provides that the investments that are made by trust agreement between the SBA and a government entity are not subject to the limitations contained in s. 215.44, F.S. The only restrictions or limitations that the investments are subject to are the restrictions and limitations contained in the trust agreement entered into between the government entity and the SBA.

The bill clarifies that officers and employees involved in the investment process must refrain from personal transactions with the individual employee at the broker-dealer firm involved in business conducted with the SBA. It also clarifies the conflict of interest provision applicable to the investment advisor and manager.

Finally, the bill corrects cross-references.

B. SECTION DIRECTORY:

Section 1 amends s. 215.44, F.S., to revise provisions that authorize the SBA to invest specified funds pursuant to the enrollment requirements of a local government authority; to authorize the Board to invest specified funds in the Local Government Surplus Funds Trust Fund without a trust agreement upon completion of enrollment materials provided by the Board; to provide that investments made by the Board under a trust agreement are subject only to the restrictions and limitations contained in the trust agreement.

Section 2 amends s. 215.4755, F.S., to correct a cross-reference, and to clarify provisions with respect to an investment advisor's or manager's code of ethics.

Section 3 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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[9] *Local Government Surplus Funds Trust Fund*, Government Program Summaries, Office of Program Policy Analysis and Government Accountability, May 4, 2010.
[10] As of January 2011; State Board of Administration, Monthly Summary Report for January 2011, at 11.
[11] State Board of Administration SB 1182 (2011) Substantive Bill Analysis (March 2, 2011) at 1 (on file with the Government Operations Subcommittee).

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   None.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

   1. Applicability of Municipality/County Mandates Provision:

      Not Applicable. This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

   2. Other:

      None.

B. RULE-MAKING AUTHORITY:

   The bill does not provide any new grants of rule making authority and none is needed to implement the provisions therein.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.