

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Rossin

316-1959-99

1                                   A bill to be entitled  
2           An act relating to investment of public funds;  
3           amending s. 218.415, F.S.; prescribing  
4           guidelines for investments by units of local  
5           government; providing for authorized  
6           investments; prohibiting investments not  
7           authorized by local investment policy;  
8           providing for continuing education for local  
9           officials responsible for making investments;  
10          prescribing a list of authorized investments;  
11          providing alternative investment guidelines for  
12          entities not adopting a written investment  
13          policy; providing for safeguarding securities;  
14          authorizing the sale of investments; providing  
15          for investment of funds when made pursuant to  
16          agreement or contract; providing for preemption  
17          of state requirements; prescribing duties of  
18          accountants and the Auditor General; amending  
19          s. 112.625, F.S.; revising definitions and  
20          defining terms; creating s. 112.661, F.S.;  
21          prescribing guidelines for investments by  
22          retirement systems or plans; providing for  
23          authorized investments; prohibiting investments  
24          not authorized by investment policy; providing  
25          for continuing education for officials  
26          responsible for making investments; providing  
27          for the filing of the investment policy with  
28          the Division of Retirement, the plan's sponsor,  
29          and the consulting actuary; providing for the  
30          valuation of illiquid investments; amending s.  
31          28.33, F.S.; prescribing requirements for

1 investment of county funds; amending s.  
2 159.416, F.S.; prescribing requirements for  
3 investment of bond proceeds and moneys held for  
4 payment of debt service on bonds; amending s.  
5 219.075, F.S.; prescribing requirements for  
6 investment of surplus funds by county officers;  
7 amending s. 230.23, F.S.; prescribing  
8 requirements for investment of school funds not  
9 needed for immediate expenditure; amending s.  
10 236.24, F.S.; deleting provisions relating to  
11 authorized investment of district school fund  
12 moneys; repealing s. 237.161(5), F.S., relating  
13 to investment of cash assets by school boards;  
14 repealing s. 230.23(10)(k), F.S., relating to  
15 investment policies of district school boards;  
16 repealing s. 125.31, F.S., relating to  
17 investment of surplus public funds by counties;  
18 repealing s. 166.261, F.S., relating to  
19 investments by municipalities; repealing s.  
20 218.345, F.S., relating to investments by  
21 special districts; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 218.415, Florida Statutes, is  
26 amended to read:

27 218.415 Local government investment  
28 policies.--Investment activity by a unit of local government  
29 must be consistent with a written investment plan adopted by  
30 the governing body, or in the absence of the existence of a  
31 governing body, the respective principal officer of the unit

1 of local government and maintained by the unit of local  
2 government or, in the alternative, such activity must be  
3 conducted in accordance with ~~the investment guidelines set~~  
4 ~~forth in~~ subsection (17) ~~(15)~~. Any such unit of local  
5 government shall have an investment policy for any public  
6 funds in excess of the amounts needed to meet current expenses  
7 as provided in subsections (1)-(16) ~~(1)-(14)~~, or shall meet  
8 the alternative investment guidelines contained in subsection  
9 (17) ~~(15)~~. Such policies shall be structured to place the  
10 highest priority on the safety of principal and liquidity of  
11 funds. The optimization of investment returns shall be  
12 secondary to the requirements for safety and liquidity. Each  
13 unit of local government shall adopt policies that are  
14 commensurate with the nature and size of the public funds  
15 within their custody.

16 (1) SCOPE.--The investment policy shall apply to funds  
17 under the control of the unit of local government in excess of  
18 those required to meet current expenses. The investment policy  
19 shall not apply to pension funds, including those funds in  
20 chapters 175 and 185; ~~trust funds~~; or funds related to the  
21 issuance of debt where there are other existing policies or  
22 indentures in effect for such funds.

23 (2) INVESTMENT OBJECTIVES.--The investment policy  
24 shall describe the investment objectives of the unit of local  
25 government. Investment objectives shall include safety of  
26 capital, liquidity of funds, and investment income, in that  
27 order.

28 (3) PERFORMANCE MEASUREMENT.--The investment policy  
29 ~~unit of local government~~ shall specify ~~develop~~ performance  
30 measures as are appropriate for the nature and size of the  
31 public funds within its custody.

1           (4) PRUDENCE AND ETHICAL STANDARDS.--The investment  
2 policy shall describe the level of prudence and ethical  
3 standards to be followed by the unit of local government in  
4 carrying out its investment activities with respect to funds  
5 described in this section. The unit of local government shall  
6 adopt the Prudent Person Rule, which states that: "Investments  
7 should be made with judgment and care, under circumstances  
8 then prevailing, which persons of prudence, discretion, and  
9 intelligence exercise in the management of their own affairs,  
10 not for speculation, but for investment, considering the  
11 probable safety of their capital as well as the probable  
12 income to be derived from the investment."

13           (5) LISTING OF AUTHORIZED INVESTMENTS.--The investment  
14 policy shall list investments authorized by the governing body  
15 of the unit of local government, subject to the provisions of  
16 subsection (16) investments. Investments not listed in the  
17 investment policy are prohibited. If the policy authorizes  
18 investments in derivative products, such policy must require  
19 that must be specifically authorized in the investment plan  
20 and may be considered only if the unit of local government's  
21 officials responsible for making investment decisions have  
22 chief financial officer has developed sufficient understanding  
23 of the derivative products and have ~~has~~ the expertise to  
24 manage them. For purposes of this subsection, a "derivative"  
25 is defined as a financial instrument the value of which  
26 depends on, or is derived from, the value of one or more  
27 underlying assets or index or asset values. If the policy  
28 authorizes investments in ~~The use of~~ reverse repurchase  
29 agreements or other forms of leverage, the policy must limit  
30 the investments shall be prohibited or limited by investment  
31 policy to transactions in which ~~where~~ the proceeds are

1 intended to provide liquidity and for which the unit of local  
2 government has sufficient resources and expertise.

3 (6) MATURITY AND LIQUIDITY REQUIREMENTS.--The  
4 investment policy shall require that the investment portfolio  
5 is structured in such manner as to provide sufficient  
6 liquidity to pay obligations as they come due. To that end,  
7 the investment policy should direct that, to the extent  
8 possible, an attempt will be made to match investment  
9 maturities with known cash needs and anticipated cash-flow  
10 requirements.

11 (7) PORTFOLIO COMPOSITION.--The investment policy  
12 shall establish guidelines for investments and limits on  
13 security issues, issuers, and maturities. Such guidelines  
14 shall be commensurate with the nature and size of the public  
15 funds within the custody of the unit of local government.

16 (8) RISK AND DIVERSIFICATION.--The investment policy  
17 shall provide for appropriate diversification of the  
18 investment portfolio. Investments held should be diversified  
19 to the extent practicable to control the risk of loss  
20 resulting from overconcentration of assets in a specific  
21 maturity, issuer, instrument, dealer, or bank through which  
22 financial instruments are bought and sold. Diversification  
23 strategies within the established guidelines shall be reviewed  
24 and revised periodically, as deemed necessary by the  
25 appropriate management staff.

26 (9) AUTHORIZED INVESTMENT INSTITUTIONS AND  
27 DEALERS.--The investment policy should specify the authorized  
28 securities dealers, issuers, and banks from whom the unit of  
29 local government may purchase securities.

30 (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment  
31 policy shall provide appropriate arrangements for the holding

1 of assets of the unit of local government. Securities should  
2 be held with a third party; and all securities purchased by,  
3 and all collateral obtained by, the unit of local government  
4 should be properly designated as an asset of the unit of local  
5 government. No withdrawal of securities, in whole or in part,  
6 shall be made from safekeeping, except by an authorized staff  
7 member of the unit of local government. Securities  
8 transactions between a broker-dealer and the custodian  
9 involving purchase or sale of securities by transfer of money  
10 or securities must be made on a "delivery vs. payment" basis,  
11 if applicable, to ensure that the custodian will have the  
12 security or money, as appropriate, in hand at the conclusion  
13 of the transaction.

14 (11) MASTER REPURCHASE AGREEMENT.--The investment  
15 policy unit of local government shall require all approved  
16 institutions and dealers transacting repurchase agreements to  
17 execute and perform as stated in the Master Repurchase  
18 Agreement. All repurchase agreement transactions shall adhere  
19 to the requirements of the Master Repurchase Agreement.

20 (12) BID REQUIREMENT.--The investment policy shall  
21 require that the unit of local government's staff determine  
22 the approximate maturity date based on cash-flow needs and  
23 market conditions, analyze and select one or more optimal  
24 types of investment, and competitively bid the security in  
25 question when feasible and appropriate. Except as otherwise  
26 required by law, the most economically advantageous bid must  
27 be selected ~~After the unit of local government staff has~~  
28 ~~determined the approximate maturity date based on cash-flow~~  
29 ~~needs and market conditions and has analyzed and selected one~~  
30 ~~or more optimal types of investment, the security in question~~  
31 ~~shall, when feasible and appropriate, be competitively bid.~~

1           (13) INTERNAL CONTROLS.--The investment policy shall  
2 provide for a system of internal controls and operational  
3 procedures. The unit of local government's officials  
4 responsible for making investment decisions ~~chief financial~~  
5 ~~officer~~ shall, ~~by January 1, 1996~~, establish a system of  
6 internal controls which shall be in writing and made a part of  
7 the governmental entity's operational procedures. The  
8 investment policy shall provide for review of such controls by  
9 independent auditors as part of any financial audit  
10 periodically required of the unit of local government. The  
11 internal controls should be designed to prevent losses of  
12 funds which might arise from fraud, employee error,  
13 misrepresentation by third parties, or imprudent actions by  
14 employees of the unit of local government.

15           (14) CONTINUING EDUCATION.--The investment policy  
16 shall provide for the continuing education of the unit of  
17 local government's officials responsible for making investment  
18 decisions. Such officials must annually complete 8 hours of  
19 continuing education in subjects or courses of study related  
20 to investment practices and products.

21           (15)~~(14)~~ REPORTING.--The investment policy shall  
22 provide for appropriate annual or more frequent reporting of  
23 investment activities. To that end, the governmental entity's  
24 officials responsible for making investment decisions ~~chief~~  
25 ~~financial officer~~ shall prepare periodic reports for  
26 submission to the legislative and governing body of the unit  
27 of local government, which shall include securities in the  
28 portfolio by class or type, book value, income earned, and  
29 market value as of the report date. Such reports shall be  
30 available to the public.

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1           (16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT  
2 POLICIES.--Those units of local government electing to adopt a  
3 written investment policy as provided in subsections (1)-(15)  
4 may by resolution invest and reinvest any surplus public funds  
5 in their control or possession in:  
6           (a) The Local Government Surplus Funds Trust Fund or  
7 any intergovernmental investment pool authorized pursuant to  
8 the Florida Interlocal Cooperation Act as provided in s.  
9 163.01.  
10           (b) Securities and Exchange Commission registered  
11 money market funds with the highest credit quality rating from  
12 a nationally recognized rating agency.  
13           (c) Savings accounts in, or certificates of deposit  
14 of, any bank, savings bank, or savings and loan association  
15 that is incorporated under the laws of this state or organized  
16 under the laws of the United States, and that is doing  
17 business in and is situated in this state, and whose accounts  
18 are insured by the Federal Government or an agency thereof,  
19 provided that such savings accounts and certificates of  
20 deposit are secured in the manner prescribed in chapter 280.  
21           (d) Direct obligations of the United States Treasury.  
22           (e) Federal agencies and instrumentalities.  
23           (f) Securities of, or other interests in, any open-end  
24 or closed-end management-type investment company or investment  
25 trust registered under the Investment Company Act of 1940, 15  
26 U.S.C. ss. 80a-1 et seq., as amended from time to time,  
27 provided that the portfolio of such investment company or  
28 investment trust is limited to obligations of the United  
29 States Government or any agency or instrumentality thereof and  
30 to repurchase agreements fully collateralized by such United  
31 States Government obligations, and provided that such



1 investment company or investment trust takes delivery of such  
2 collateral either directly or through an authorized custodian.

3 (g) Other investments authorized by law or by  
4 ordinance.

5 (17)(15) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT

6 POLICY ALTERNATIVE INVESTMENT GUIDELINES.--Those units of  
7 local government electing not to adopt a written investment  
8 policy in accordance with investment policies developed as  
9 provided in subsections (1)-(15) may invest or reinvest any  
10 surplus public funds in their control or possession in:In  
11 addition to or in lieu of establishing a written investment  
12 plan in accordance with investment policies developed pursuant  
13 to subsections (1)-(14), a unit of local government electing  
14 to conduct investment activity outside the framework provided  
15 by this part shall do so under the guidelines set forth in  
16 this section. The unit of local government may invest in the  
17 following instruments and may divest itself of such  
18 investments, at prevailing market prices or rates, subject to  
19 the limitations of this section.

20 (a) The Local Government Surplus Funds Trust Fund, or  
21 any intergovernmental investment pool authorized pursuant to  
22 the Florida Interlocal Cooperation Act, as provided in s.  
23 163.01.

24 (b) Securities and Exchange Commission registered  
25 money market funds with the highest credit quality rating from  
26 a nationally recognized rating agency.

27 (c) Savings accounts, or certificates of deposit of,  
28 any bank, savings bank, or savings and loan association that  
29 is incorporated under the laws of this state or organized  
30 under the laws of the United States, that is doing business  
31 and is situated in this state, and whose accounts are insured

1 by the Federal Government or an agency thereof, provided that  
2 such savings accounts and certificates of deposit are secured  
3 in the manner prescribed in chapter 280 in state-certified  
4 qualified public depositories, as defined in s. 280.02.

5 ~~(d) Certificates of deposit in state-certified~~  
6 ~~qualified public depositories, as defined in s. 280.02.~~

7 ~~(d)(e) Direct obligations of the U.S. Treasury.~~

8 ~~(f) Federal agencies and instrumentalities.~~

9  
10 The securities listed in paragraphs (c) and, ~~(d)~~, ~~(e)~~, and ~~(f)~~  
11 shall be invested to provide sufficient liquidity to pay  
12 obligations as they come due ~~match investment maturities with~~  
13 ~~current expenses.~~

14 (18) SECURITIES; DISPOSITION.--

15 (a) Every security purchased under this section on  
16 behalf of the governing body of a unit of local government  
17 must be properly earmarked and:

18 1. If registered with the issuer or its agents, must  
19 be immediately placed for safekeeping in a location that  
20 protects the governing body's interest in the security;

21 2. If in book entry form, must be held for the credit  
22 of the governing body by a depository chartered by the Federal  
23 Government, the state, or any other state or territory of the  
24 United States which has a branch or principal place of  
25 business in this state as defined in s. 658.12, or by a  
26 national association organized and existing under the laws of  
27 the United States of America which is authorized to accept and  
28 execute trusts and which is doing business in this state, and  
29 must be kept by the depository in an account separate and  
30 apart from the assets of the financial institution; or

31

1           3. If physically issued to the holder but not  
2 registered with the issuer or its agents, must be immediately  
3 placed for safekeeping in a secured vault in a financial  
4 institution in this state which maintains adequate secured  
5 vault insurance.

6           (b) The unit of local government's governing body may  
7 also receive bank trust receipts in return for investment of  
8 surplus funds in securities. Any trust receipts received must  
9 enumerate the various securities held, together with the  
10 specific number of each security held. The actual securities  
11 on which the trust receipts are issued may be held by any bank  
12 depository chartered by the Federal Government, this state, or  
13 any other state or territory of the United States, which has a  
14 branch or principal place of business in this state as defined  
15 in s. 658.12, or by a national association organized and  
16 existing under the laws of the United States of America which  
17 is authorized to accept and execute trusts and which is doing  
18 business in this state as defined by s. 658.12.

19           (19) SALE OF SECURITIES.--When the invested funds are  
20 needed in whole or in part for the purposes originally  
21 intended, the unit of local government's governing body may  
22 sell such investments at the then-prevailing market price and  
23 place the proceeds into the proper account or fund of the unit  
24 of local government.

25           (20) PREEXISTING CONTRACT.--Any public funds subject  
26 to a contract or agreement existing on October 1, 1999, may  
27 not be invested contrary to such contract or agreement.

28           (21) PREEMPTION.--Any word, sentence, phrase, or  
29 provision of any special act, municipal charter, or other law  
30 which prohibits or restricts a local governmental entity from  
31

1 complying with this section or any rules adopted under this  
2 section is void to the extent of the conflict.

3 (22) AUDITS.--Certified public accountants conducting  
4 audits of units of local government pursuant to s. 11.45 shall  
5 report, as part of the audit, whether or not the unit of local  
6 government has complied with s. 218.415.

7 (23) AUDITOR GENERAL; REVIEW.--During the Auditor  
8 General's review of audit reports of units of local  
9 government, the Auditor General shall notify the Joint  
10 Legislative Auditing Committee of any unit of local government  
11 not in compliance with this section. Following notification of  
12 failure by a local government to comply with s. 218.415, a  
13 hearing may be scheduled by the committee. If a hearing is  
14 scheduled, the committee shall determine which units of local  
15 government will be subjected to further state action. If the  
16 committee finds that one or more units of local government  
17 should be subjected to further state action, the committee  
18 shall:

19 (a) In the case of a county, municipality, or district  
20 school board, request the Department of Revenue and the  
21 Department of Banking and Finance to withhold any funds  
22 payable to such entity until the entity has complied with this  
23 section.

24 (b) In the case of a special district, notify the  
25 Department of Community Affairs that the special district has  
26 failed to comply with this section. Upon receipt of  
27 notification, the Department of Community Affairs shall  
28 proceed pursuant to the provisions specified in ss. 189.421  
29 and 189.422.

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1           Section 2. Subsections (7) and (8) of section 112.625,  
2 Florida Statutes, are amended, and subsection (9) is added to  
3 that section, to read:

4           112.625 Definitions.--As used in this act:

5           (7) "Statement value" means the value of assets in  
6 accordance with s. 302(c)(2) of the Employee Retirement Income  
7 Security Act of 1974 and as permitted under regulations  
8 prescribed by the Secretary of the Treasury. Assets for which  
9 a fair market value is not provided shall be excluded from the  
10 assets used in the determination of annual funding cost.

11           (8) "Named fiduciary," "board," or "board of trustees"  
12 means the person or persons so designated by the terms of the  
13 instrument or instruments, ordinance, or statute under which  
14 the plan is operated.

15           (9) "Plan sponsor" means the local governmental entity  
16 that has established or that may establish a local retirement  
17 system or plan.

18           Section 3. Section 112.661, Florida Statutes, is  
19 created to read:

20           112.661 Investment policies.--Investment of the assets  
21 of any retirement system or plan must be consistent with a  
22 written investment policy adopted by the board. Such policies  
23 shall be structured to maximize the financial return to the  
24 retirement system or plan consistent with the risks incumbent  
25 in each investment and shall be structured to establish and  
26 maintain an appropriate diversification of the retirement  
27 system or plan's assets.

28           (1) SCOPE.--The investment policy shall apply to funds  
29 under the control of the board.

30           (2) INVESTMENT OBJECTIVES.--The investment policy  
31 shall describe the investment objectives of the board.

1           (3) PERFORMANCE MEASUREMENT.--The investment policy  
2 shall specify performance measures as are appropriate for the  
3 nature and size of the assets within the board's custody.

4           (4) INVESTMENT AND FIDUCIARY STANDARDS.--The  
5 investment policy shall describe the level of prudence and  
6 ethical standards to be followed by the board in carrying out  
7 its investment activities with respect to funds described in  
8 this section. The board in performing its investment duties  
9 shall comply with the fiduciary standards set forth in the  
10 Employee Retirement Income Security Act of 1974 at 29 U.S.C.  
11 s. 1104(a)(1)(A) through (C). In case of conflict with other  
12 provisions of law authorizing investments, the investment and  
13 fiduciary standards set forth in this section shall prevail.

14           (5) AUTHORIZED INVESTMENTS.--

15           (a) The investment policy shall list investments  
16 authorized by the board. Investments not listed in the  
17 investment policy are prohibited. Unless otherwise authorized  
18 by law or ordinance, the investment of the assets of any  
19 retirement system or plan covered by this part shall be  
20 subject to the limitations and conditions in s. 215.47(1),  
21 (2), (3), (4), (5), (6), (7), (8), (10), and (16).

22           (b) If a retirement system or plan has investments  
23 that, on October 1, 1999, either exceed the applicable limit  
24 or do not satisfy the applicable investment standard, such  
25 excess or investment not in compliance with the policy may be  
26 continued until such time as it is economically feasible to  
27 dispose of such investment. However, no additional investment  
28 may be made in the investment category which exceeds the  
29 applicable limit, unless authorized by law or ordinance.

30           (6) MATURITY AND LIQUIDITY REQUIREMENTS.--The  
31 investment policy shall require that the investment portfolio

1 is structured in such manner as to provide sufficient  
2 liquidity to pay obligations as they come due. To that end,  
3 the investment policy should direct that, to the extent  
4 possible, an attempt will be made to match investment  
5 maturities with known cash needs and anticipated cash-flow  
6 requirements.

7 (7) PORTFOLIO COMPOSITION.--The investment policy  
8 shall establish guidelines for investments and limits on  
9 security issues, issuers, and maturities. Such guidelines  
10 shall be commensurate with the nature and size of the funds  
11 within the custody of the board.

12 (8) RISK AND DIVERSIFICATION.--The investment policy  
13 shall provide for appropriate diversification of the  
14 investment portfolio. Investments held should be diversified  
15 to the extent practicable to control the risk of loss  
16 resulting from overconcentration of assets in a specific  
17 maturity, issuer, instrument, dealer, or bank through which  
18 financial instruments are bought and sold. Diversification  
19 strategies within the established guidelines shall be reviewed  
20 and revised periodically, as deemed necessary by the board.

21 (9) EXPECTED ANNUAL RATE OF RETURN.--The investment  
22 policy shall require that, for each actuarial valuation, the  
23 board determine the total expected annual rate of return for  
24 the current year, for each of the next several years, and for  
25 the long term thereafter. This determination must be filed  
26 promptly with the Division of Retirement and with the plan's  
27 sponsor and consulting actuary.

28 (10) THIRD-PARTY CUSTODIAL AGREEMENTS.--The investment  
29 policy shall provide appropriate arrangements for the holding  
30 of assets of the board. Securities should be held with a third  
31 party, and all securities purchased by, and all collateral

1 obtained by, the board should be properly designated as an  
2 asset of the board. No withdrawal of securities, in whole or  
3 in part, shall be made from safekeeping except by an  
4 authorized member of the board or the board's designee.  
5 Securities transactions between a broker-dealer and the  
6 custodian involving purchase or sale of securities by transfer  
7 of money or securities must be made on a "delivery vs.  
8 payment" basis, if applicable, to ensure that the custodian  
9 will have the security or money, as appropriate, in hand at  
10 the conclusion of the transaction.

11 (11) MASTER REPURCHASE AGREEMENT.--The investment  
12 policy shall require all approved institutions and dealers  
13 transacting repurchase agreements to execute and perform as  
14 stated in the Master Repurchase Agreement. All repurchase  
15 agreement transactions shall adhere to the requirements of the  
16 Master Repurchase Agreement.

17 (12) BID REQUIREMENT.--The investment policy shall  
18 provide that the board determine the approximate maturity date  
19 based on cash-flow needs and market conditions, analyze and  
20 select one or more optimal types of investment, and  
21 competitively bid the security in question when feasible and  
22 appropriate. Except as otherwise required by law, the most  
23 economically advantageous bid must be selected.

24 (13) INTERNAL CONTROLS.--The investment policy shall  
25 provide for a system of internal controls and operational  
26 procedures. The board shall establish a system of internal  
27 controls which shall be in writing and made a part of the  
28 board's operational procedures. The policy shall provide for  
29 review of such controls by independent certified public  
30 accountants as part of any financial audit periodically  
31 required of the board's unit of local government. The internal



1 controls should be designed to prevent losses of funds which  
2 might arise from fraud, error, misrepresentation by third  
3 parties, or imprudent actions by the board or employees of the  
4 unit of local government.

5 (14) CONTINUING EDUCATION.--The investment policy  
6 shall provide for the continuing education of the board  
7 members in matters relating to investments and the board's  
8 responsibilities.

9 (15) REPORTING.--The investment policy shall provide  
10 for appropriate annual or more frequent reporting of  
11 investment activities. To that end, the board shall prepare  
12 periodic reports for submission to the governing body of the  
13 unit of local government which shall include investments in  
14 the portfolio by class or type, book value, income earned, and  
15 market value as of the report date. Such reports shall be  
16 available to the public.

17 (16) FILING OF INVESTMENT POLICY.--Upon adoption by  
18 the board, the investment policy shall be promptly filed with  
19 the Division of Retirement and the plan's sponsor and  
20 consulting actuary. The effective date of the investment  
21 policy, and any amendment thereto, shall be the 31st calendar  
22 day following the filing date with the plan sponsor.

23 (17) VALUATION OF ILLIQUID INVESTMENTS.--The  
24 investment policy shall provide for the valuation of illiquid  
25 investments for which a generally recognized market is not  
26 available or for which there is no consistent or generally  
27 accepted pricing mechanism. If those investments are utilized,  
28 the investment policy must include the criteria set forth in  
29 s. 215.47(6), except that an Investment Advisory Council is  
30 not required. The investment policy shall require that, for  
31 each actuarial valuation, the board must verify the

1 determination of the fair-market value for those investments  
2 and ascertain that the determination complies with all  
3 applicable state and federal requirements. The investment  
4 policy shall require that the board disclose to the Division  
5 of Retirement and the plan's sponsor each such investment for  
6 which the fair-market value is not provided.

7 Section 4. Section 28.33, Florida Statutes, is amended  
8 to read:

9 28.33 Investment of county funds by the clerk of the  
10 circuit court.--The clerk of the circuit court in each county  
11 shall invest county funds in excess of those required to meet  
12 expenses as provided in s. 218.415.~~make an estimate of his or~~  
13 ~~her projected financial needs for the county and shall invest~~  
14 ~~any funds in designated depository banks in interest-bearing~~  
15 ~~certificates or in any direct obligations of the United States~~  
16 ~~in compliance with federal laws relating to receipt of and~~  
17 ~~withdrawal of deposits. All investments shall be open for bid~~  
18 ~~to all qualified depositories in the county. The clerk shall~~  
19 ~~select the highest and best bid for deposit. All bids~~  
20 ~~received by the clerk shall include, but not be limited to,~~  
21 ~~the interest rate to be earned and the total amount of dollar~~  
22 ~~return to be paid to the clerk. In the event of a like bid~~  
23 ~~between two or more banks, the moneys shall be divided and~~  
24 ~~deposited in each bank, so long as the total interest income~~  
25 ~~from the divided deposits will not be less than the total~~  
26 ~~interest income had the deposits not been divided. If at the~~  
27 ~~time of bid the dollar return on direct obligations of the~~  
28 ~~Federal Government is greater than the highest bank return,~~  
29 ~~then the clerk shall invest in the higher return security.~~  
30 ~~Moneys deposited in the registry of the court shall be~~  
31 ~~deposited in interest-bearing certificates at the discretion~~

1 ~~of the clerk, subject to the above guidelines.~~ No clerk  
2 investing such funds shall be liable for the loss of any  
3 interest when circumstances require the withdrawal of funds  
4 placed in a time deposit and needed for immediate payment of  
5 county obligations. ~~In any county where local banks refuse to~~  
6 ~~bid on securing such money on interest-bearing certificates,~~  
7 ~~the clerk may request and receive bids from banks in other~~  
8 ~~counties within the state and make such deposits to the~~  
9 ~~successful bidder.~~ Except for interest earned on moneys  
10 deposited in the registry of the court, all interest accruing  
11 from moneys deposited shall be deemed income of the office of  
12 the clerk of the circuit court investing such moneys and shall  
13 be deposited in the same account as are other fees and  
14 commissions of the clerk's office. The clerk may invest  
15 moneys deposited in the registry of the court and shall retain  
16 as income of the office of the clerk and as a reasonable  
17 investment management fee 10 percent of the interest accruing  
18 on those funds with the balance of such interest being  
19 allocated in accordance with the interest of the depositors.  
20 ~~Each clerk shall, as soon as practicable after the end of the~~  
21 ~~fiscal year, report to the county governing authority the~~  
22 ~~total interest earned on all investments during the preceding~~  
23 ~~year.~~

24 Section 5. Subsection (9) of section 159.416, Florida  
25 Statutes, is amended to read:

26 159.416 Pool financings.--

27 (9) Proceeds of bonds and moneys held for the payment  
28 of debt service on bonds, including, but not limited to,  
29 amounts held in the loan fund, any reserve fund, or debt  
30 service fund for the bonds, may be invested in investments  
31 authorized by or pursuant to an ordinance or resolution

1 providing for the issuance of the bonds or any trust agreement  
2 or trust indenture or other instrument approved by such  
3 ordinance or resolution, including, but not limited to,  
4 investments described in s. 218.415 ~~ss. 28.33, 125.31,~~  
5 ~~166.261, 218.345, 219.075, and 236.24~~ and chapter ~~280~~. The  
6 acquisition of any debt obligation or investment contract or  
7 investment agreement of any bank, savings and loan  
8 association, insurance company, registered broker-dealer, or  
9 other financial institution shall be deemed to be an  
10 investment and not a loan and therefore need not meet the  
11 criteria of subsections (5), (6), and (7).

12 Section 6. Section 219.075, Florida Statutes, is  
13 amended to read:

14 219.075 Investment of surplus funds by county  
15 officers.--

16 (1)(a) Except when another procedure is prescribed by  
17 law or by ordinance as to particular funds, a tax collector or  
18 any other county officer having, receiving, or collecting any  
19 money, either for his or her office or on behalf of and  
20 subject to subsequent distribution to another officer of state  
21 or local government, while such money is in excess of that  
22 required to meet current expenses ~~surplus to current needs of~~  
23 ~~his or her office~~ or that is pending distribution, shall  
24 invest such money, without limitation, as provided in s.  
25 218.415.in:

26 1. ~~The Local Government Surplus Funds Trust Fund, as~~  
27 ~~created by s. 218.405;~~

28 2. ~~Bonds, notes, or other obligations of the United~~  
29 ~~States guaranteed by the United States or for which the credit~~  
30 ~~of the United States is pledged for the payment of the~~  
31 ~~principal and interest or dividends;~~

1           ~~3. Interest-bearing time deposits or savings accounts~~  
2 ~~in banks organized under the laws of this state, in national~~  
3 ~~banks organized under the laws of the United States and doing~~  
4 ~~business and situated in this state, in savings and loan~~  
5 ~~associations which are under state supervision, or in federal~~  
6 ~~savings and loan associations located in this state and~~  
7 ~~organized under federal law and federal supervision, provided~~  
8 ~~that any such deposits are secured by collateral as may be~~  
9 ~~prescribed by law; or~~

10           ~~4. Securities of, or other interests in, any open-end~~  
11 ~~or closed-end management type investment company or investment~~  
12 ~~trust registered under the Investment Company Act of 1940, 15~~  
13 ~~U.S.C. ss. 80a-1 et seq., as amended from time to time,~~  
14 ~~provided the portfolio of such investment company or~~  
15 ~~investment trust is limited to obligations of the United~~  
16 ~~States Government or any agency or instrumentality thereof and~~  
17 ~~to repurchase agreements fully collateralized by such United~~  
18 ~~States Government obligations and provided such investment~~  
19 ~~company or investment trust takes delivery of such collateral~~  
20 ~~either directly or through an authorized custodian.~~

21           (b) These investments shall be planned so as not to  
22 slow the normal distribution of the subject funds. The  
23 investment earnings shall be reasonably apportioned and  
24 allocated and shall be credited to the account of, and paid  
25 to, the office or distributee, together with the principal on  
26 which such earnings accrued.

27           (2) Except when another procedure is prescribed by  
28 law, ordinance, or court order as to particular funds, the tax  
29 collector shall, as soon as feasible after collection, deposit  
30 in a bank designated as a depository of public funds, as  
31 provided in s. 658.60, all taxes, fees, and other collections

1 received by him or her and held prior to distribution to the  
2 appropriate taxing authority. Immediately after such funds  
3 have cleared and have been properly credited to the tax  
4 collector's his or her account, the tax collector shall invest  
5 such funds according to the provisions of s. 218.415 ~~this~~  
6 ~~section~~. The earnings from such investments shall be  
7 apportioned at least quarterly on a pro rata basis to the  
8 appropriate taxing authorities. However, the tax collector  
9 may deduct therefrom such reasonable amounts as are necessary  
10 to provide for costs of administration of such investments and  
11 deposits.

12 (3) The State Board of Administration may establish a  
13 schedule and guidelines to be followed by tax collectors  
14 making deposits ~~and investments~~ under the provisions of  
15 subsection (2).

16 ~~(4) The provisions of this section are subject to the~~  
17 ~~provisions of s. 218.415.~~

18 Section 7. Section 236.24, Florida Statutes, 1998  
19 Supplement, is amended to read:

20 236.24 Sources of district school fund.--

21 ~~(1)~~ The district school fund shall consist of funds  
22 derived from the district school tax levy; state  
23 appropriations; appropriations by county commissioners; local,  
24 state, and federal school food service funds; any and all  
25 other sources for school purposes; national forest trust funds  
26 and other federal sources; and gifts and other sources.

27 ~~(2)(a) Unless otherwise authorized by law or by~~  
28 ~~ordinance, each school board shall, by resolution to be~~  
29 ~~adopted from time to time, invest and reinvest any surplus~~  
30 ~~public funds in its control or possession in:~~

31 1. ~~The Local Government Surplus Funds Trust Fund;~~

1           ~~2. Negotiable direct obligations of, or obligations~~  
2 ~~the principal and interest of which are unconditionally~~  
3 ~~guaranteed by, the United States Government at the then~~  
4 ~~prevailing market price for such securities;~~

5           ~~3. Interest-bearing time deposits or savings accounts~~  
6 ~~in qualified public depositories as defined in s. 280.02;~~

7           ~~4. Obligations of the federal farm credit banks; the~~  
8 ~~Federal Home Loan Mortgage Corporation, including Federal Home~~  
9 ~~Loan Mortgage Corporation participation certificates; or the~~  
10 ~~Federal Home Loan Bank or its district banks or obligations~~  
11 ~~guaranteed by the Government National Mortgage Association;~~

12           ~~5. Obligations of the Federal National Mortgage~~  
13 ~~Association, including Federal National Mortgage Association~~  
14 ~~participation certificates and mortgage pass-through~~  
15 ~~certificates guaranteed by the Federal National Mortgage~~  
16 ~~Association; or~~

17           ~~6. Securities of, or other interests in, any open-end~~  
18 ~~or closed-end management type investment company or investment~~  
19 ~~trust registered under the Investment Company Act of 1940, 15~~  
20 ~~U.S.C. ss. 80a-1 et seq., as amended from time to time,~~  
21 ~~provided the portfolio of such investment company or~~  
22 ~~investment trust is limited to obligations of the United~~  
23 ~~States Government or any agency or instrumentality thereof and~~  
24 ~~to repurchase agreements fully collateralized by such United~~  
25 ~~States Government obligations, and provided such investment~~  
26 ~~company or investment trust takes delivery of such collateral~~  
27 ~~either directly or through an authorized custodian.~~

28           ~~(b)1. Securities purchased by any such school board~~  
29 ~~under the authority of this law shall be delivered by the~~  
30 ~~seller to the school board or its appointed safekeeper. The~~  
31 ~~safekeeper shall be a qualified bank or trust company~~

1 ~~chartered to operate as such by the State of Florida, any~~  
2 ~~other state or territory of the United States, or the United~~  
3 ~~States Government, that has a branch or principal place of~~  
4 ~~business in this state as defined in s. 658.12. The safekeeper~~  
5 ~~shall issue documentation for each transaction, and a monthly~~  
6 ~~statement detailing all transactions for the period.~~

7       2. ~~Securities physically delivered to the school board~~  
8 ~~shall be placed in a safe-deposit box in a bank or other~~  
9 ~~institution located within the county and duly licensed and~~  
10 ~~insured. Withdrawals from such safe-deposit box shall be only~~  
11 ~~by persons duly authorized by resolution of the school board.~~

12       3. ~~The school board may also receive bank trust~~  
13 ~~receipts in return for investment of surplus funds in~~  
14 ~~securities. Any trust receipts received must enumerate the~~  
15 ~~various securities held together with the specific number of~~  
16 ~~each security held. The actual securities on which the trust~~  
17 ~~receipts are issued may be held by any bank depository~~  
18 ~~chartered by the United States Government, the State of~~  
19 ~~Florida, or any other state or territory of the United States,~~  
20 ~~that has a branch or principal place of business in this state~~  
21 ~~as defined in s. 658.12, or their designated agents.~~

22       (c) ~~When the money invested in such securities is~~  
23 ~~needed in whole or in part for the purposes originally~~  
24 ~~intended, the school board is authorized to sell such security~~  
25 ~~or securities at the then prevailing market price and to pay~~  
26 ~~the proceeds of such sale into the proper account or fund of~~  
27 ~~the school board.~~

28       (d) ~~For the purposes of this law, the term "surplus~~  
29 ~~funds" is defined as funds in any general or special account~~  
30 ~~or fund of the school board, held or controlled by the school~~  
31 ~~board, which funds are not reasonably contemplated to be~~



1 ~~needed for the purposes intended within a reasonable time from~~  
2 ~~the date of such investment.~~

3 ~~(e) Any surplus public funds subject to a contract or~~  
4 ~~agreement on the date of this enactment shall not be invested~~  
5 ~~contrary to such contract or agreement.~~

6 ~~(f) The provisions of this subsection are supplemental~~  
7 ~~to any and all other laws relating to the legal investments by~~  
8 ~~school boards.~~

9 ~~(3) Investments made pursuant to this section may be~~  
10 ~~in book entry form and may be under repurchase agreements.~~

11 ~~(4) The provisions of this section are subject to the~~  
12 ~~provisions of s. 218.415.~~

13 Section 8. Subsection (5) of section 237.161, Florida  
14 Statutes, is repealed.

15 Section 9. Paragraph (k) of subsection (10) of section  
16 230.23, Florida Statutes, 1998 Supplement, is repealed.

17 Section 10. Section 125.31, Florida Statutes, as  
18 amended by section 4 of chapter 98-409, Laws of Florida;  
19 section 166.261, Florida Statutes; and section 218.345,  
20 Florida Statutes, as amended by section 8 of chapter 98-409,  
21 Laws of Florida, are repealed.

22 Section 11. This act shall take effect October 1,  
23 1999.

24  
25 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
26 COMMITTEE SUBSTITUTE FOR  
27 Senate Bill 1992

28 Amends ch. 112, F.S., to require that the investment of  
29 retirement plan assets be consistent with a written investment  
30 policy. Specifies the contents of the investment policy,  
31 including the requirement that certain fiduciary standards are  
met. Requires that the investment policy be filed with the  
Division of Retirement, the plan's sponsor and actuary.