FINAL BILL ANALYSIS

BILL #: HB 7155

FINAL HOUSE FLOOR ACTION:
117 Y's 1 N's

SPONSOR: Rep. Patronis

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/SB 1182

SUMMARY ANALYSIS

HB 7155 passed the House on May 2, 2011, and subsequently passed the Senate on May 3, 2011. The bill was approved by the Governor on May 31, 2011, chapter 2011-100, Laws of Florida, and takes effect July 1, 2011.

The bill authorizes the State Board of Administration (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 SBA. A separate trust agreement is no longer needed to grant the SBA 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 does not appear to have a fiscal impact on state or local governments.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

The State Board of Administration (SBA or board) is established by Article IV, s. 4(e) of the State 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]

Current law sets forth the powers and duties of the SBA in relation to the investment of trust funds.[2] Among the powers granted to the SBA is the authority to make purchases, sales, exchanges, and reinvestments for trust funds.[3] The SBA is charged to ensure that the investments are handled in the best interests of the state, but also to have an appropriately diversified portfolio that maximizes financial returns consistent with the risks incumbent in each investment. The SBA's ability to invest moneys available for investments is subject to limitations imposed by a "legal list" of the types of investments and the amount that may be invested in each investment type.[4]

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

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[1] State Board of Administration Investment Overview, January 12, 2011, at 3.
[2] Section 215.44, F.S.
[3] Section 215.44(2)(a), F.S.
[4] 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.

[5] Chapter 218, Part IV, F.S.
[6] 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.
[7] Section 215.47(9), F.S.

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.[8] The primary objectives of the LGIP are "safety, liquidity, and competitive returns with minimization of risk."[9] This fund provides government entities with a low-risk, low-cost opportunity to invest their funds. To that end, the LGIP contains United States securities and money market instruments such as certificates of deposit, commercial paper, bankers' acceptances, repurchase agreements, and selected corporate short-term obligations.[10]

The LGIP currently oversees the funds of 810 local governments and school districts.[11] 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.[12]

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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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[8] Local Government Surplus Funds Trust Fund, Government Program Summaries, Office of Program Policy Analysis and Government Accountability, May 4, 2010.
[9] Section 218.405(2), F.S.
[10] Local Government Surplus Funds Trust Fund, Government Program Summaries, Office of Program Policy Analysis and Government Accountability, May 4, 2010.
[11] As of January 2011; State Board of Administration, Monthly Summary Report for January 2011, at 11.
[12] State Board of Administration SB 1182 (2011) Substantive Bill Analysis (March 2, 2011) at 1 (on file with the Government Operations Subcommittee).

2. **Expenditures:**

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. **Revenues:**

None.

2. **Expenditures:**

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.