

CHAPTER 2011-100

House Bill No. 7155

An act relating to state financial matters; amending s. 215.44, F.S.; revising provisions which authorize the State Board of Administration to invest specified funds pursuant to the enrollment requirements of a local government investment authority; authorizing 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; providing that investments made by the board under a trust agreement are subject only to the restrictions and limitations contained in the trust agreement; amending s. 215.4755, F.S.; correcting a cross-reference; clarifying provisions with respect to an investment adviser's or manager's code of ethics; providing an effective date.

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

Section 1. Subsections (1) and (3) of section 215.44, Florida Statutes, are amended to read:

215.44 Board of Administration; powers and duties in relation to investment of trust funds.—

(1) Except when otherwise specifically provided by the State Constitution and subject to any limitations of the trust agreement relating to a trust fund, the Board of Administration, sometimes referred to in this chapter as “board” or “Trustees of the State Board of Administration,” composed of the Governor as chair, the Chief Financial Officer, and the Attorney General, shall invest all the funds in the System Trust Fund, as defined in s. 121.021(36), and all other funds specifically required by law to be invested by the board pursuant to ss. 215.44-215.53 to the fullest extent that is consistent with the cash requirements, trust agreement, and investment objectives of the fund. Notwithstanding any other law to the contrary, the State Board of Administration may invest any funds of any state agency, any state university or college, any unit of local government, or any direct-support organization thereof pursuant to the terms of a trust agreement with the head of the state agency or the governing body of the state university or college, unit of local government, or direct-support organization thereof, ~~or pursuant to the enrollment requirements stated in s. 218.407,~~ and may invest such funds in the Local Government Surplus Funds Trust Fund created by s. 218.405 without a trust agreement upon completion of enrollment materials provided by the board. The board shall approve the undertaking of investments subject to a trust agreement before execution of such trust agreement by the State Board of Administration. The funds and the earnings therefrom are exempt from the service charge imposed by s. 215.20. As used in this subsection, the term “state agency” has the same meaning as that provided in s. 216.011, and the terms “governing body” and

“unit of local government” have the same meaning as that provided in s. 218.403.

(3) Notwithstanding any law to the contrary, all investments made by the State Board of Administration pursuant to ss. 215.44-215.53 shall be subject to the restrictions and limitations contained in s. 215.47, except that investments made by the State Board of Administration under a trust agreement pursuant to subsection (1) shall be subject only to the restrictions and limitations contained in the trust agreement.

Section 2. Subsections (1) and (2) of section 215.4755, Florida Statutes, are amended to read:

215.4755 Certification and disclosure requirements for investment advisers and managers.—

(1) An investment adviser or manager who has discretionary investment authority for direct holdings and who is retained as provided in s. 215.44(2)(b)(e) shall agree pursuant to contract to annually certify in writing to the board that:

(a) All investment decisions made on behalf of the trust funds and the board are made in the best interests of the trust funds and the board and not made in a manner to the advantage of such investment adviser or manager, other persons, or clients to the detriment of the trust funds and the board.

(b) Appropriate policies, procedures, or other safeguards have been adopted and implemented to ensure that relationships with any affiliated persons or entities do not adversely influence the investment decisions made on behalf of the trust funds and the board.

(c) A written code of ethics, conduct, or other set of standards, which governs the professional behavior and expectations of owners, general partners, directors or managers, officers, and employees of the investment adviser or manager, has been adopted and implemented and is effectively monitored and enforced. The investment advisers’ and managers’ code of ethics shall require that:

1. Officers and employees involved in the investment process refrain from personal business activity that could conflict with the proper execution and management of the investment program over which the investment adviser or manager has discretionary investment authority or that could impair their ability to make impartial decisions with respect to such investment program; and

2. Officers and employees refrain from undertaking personal investment transactions with the same individual employee at a broker-dealer firm with whom business is conducted on behalf of the board.

(d) The investment adviser or manager has proactively and promptly disclosed to the board, notwithstanding subsection (2), any known

circumstances or situations that a prudent person could expect to create an actual or, potential, ~~or~~ ~~perceived~~ conflict of interest, including specifically:

1. Any material interests in or with financial institutions with which officers and employees conduct business on behalf of the trust funds and the board; and

2. Any personal financial or investment positions of the investment adviser or manager that could be related to the performance of an investment program over which the investment adviser or manager has discretionary investment authority on behalf of the board.

(2) At the board's request, an investment adviser or manager who has discretionary investment authority over direct holdings and who is retained as provided in s. 215.44(2)(b)(e) shall disclose in writing to the board:

(a) Any nonconfidential, nonproprietary information or reports to substantiate the certifications required under subsection (1).

(b) All direct or indirect pecuniary interests that the investment adviser or manager has in or with any party to a transaction with the board, if the transaction is related to any discretionary investment authority that the investment adviser or manager exercises on behalf of the board.

Section 3. This act shall take effect July 1, 2011.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.