

CHAPTER 2018-140

House Bill No. 6003

An act relating to the Participant Local Government Advisory Council; amending s. 218.409, F.S.; abolishing the Participant Local Government Advisory Council; amending ss. 218.421 and 218.422, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2), subsection (6), paragraph (a) of subsection (8), and subsections (9) and (10) of section 218.409, Florida Statutes, are amended to read:

218.409 Administration of the trust fund; ~~creation of advisory council.~~

(2)

(d) The investment policy shall be reviewed and approved annually by the trustees or when market changes dictate, and in each event the investment policy shall be reviewed by the Investment Advisory Council ~~and by the Participant Local Government Advisory Council.~~

(6)(a) The board or a professional money management firm shall provide a report, at a minimum monthly or upon the occurrence of a material event, to every participant having a beneficial interest in the trust fund, the board's executive director, the trustees, the Joint Legislative Auditing Committee, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council.~~ The report shall include:

1. Reports of any material impacts on the trust fund and any actions or escalations taken by staff to address such impacts. The trustees shall provide quarterly a report to the Joint Legislative Auditing Committee that the trustees have reviewed and approved the monthly reports and actions taken, if any, to address any impacts.

2. A management summary that provides an analysis of the status of the current investment portfolio and the individual transactions executed over the last month. This management summary shall be prepared in a manner that will allow anyone to ascertain whether investment activities during the reporting period have conformed to investment policies. Such reporting shall be in conformance with best market practices. The board or a professional money management firm shall furnish upon request the details of an investment transaction to any participant, the trustees, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council.~~

(b) The market value of the portfolio shall be calculated daily. Withdrawals from the trust fund shall be based on a process that is transparent to participants and will ensure that advantages or disadvantages do not occur

to parties making deposits or withdrawals on any particular day. A statement of the market value and amortized cost of the portfolio shall be issued to participants in conjunction with any deposits or withdrawals. In addition, this information shall be reported monthly with the items in paragraph (a) to participants, the trustees, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council~~. The review of the investment portfolio, in terms of value and price volatility, shall be performed with practices consistent with the GFOA Recommended Practice on “Mark-to-Market Practices for State and Local Government Investment Portfolios and Investment Pools.” In defining market value, consideration shall be given to GASB Statement 31. Additional reporting may be made to pool participants through regular and frequent ongoing multimedia educational materials and communications, including, but not limited to, historical performance, investment holdings, amortized cost and market value of the trust fund, credit quality, and average maturity of the trust fund investments.

(8)(a) The principal, and any part thereof, of each account constituting the trust fund is subject to payment at any time from the moneys in the trust fund. However, the executive director may, in good faith, on the occurrence of an event that has a material impact on liquidity or operations of the trust fund, for 48 hours limit contributions to or withdrawals from the trust fund to ensure that the board can invest moneys entrusted to it in exercising its fiduciary responsibility. Such action must be immediately disclosed to all participants, the trustees, the Joint Legislative Auditing Committee, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council~~. The trustees shall convene an emergency meeting as soon as practicable from the time the executive director has instituted such measures and review the necessity of those measures. If the trustees are unable to convene an emergency meeting before the expiration of the 48-hour moratorium on contributions and withdrawals, the moratorium may be extended by the executive director until the trustees are able to meet to review the necessity for the moratorium. If the trustees agree with such measures, the trustees shall vote to continue the measures for up to an additional 15 days. The trustees must convene and vote to continue any such measures before the expiration of the time limit set, but in no case may the time limit set by the trustees exceed 15 days.

(9) The Auditor General shall conduct an annual financial audit of the trust fund, which shall include testing for compliance with the investment policy. The completed audit shall be provided to the participants, the board, the trustees, the Investment Advisory Council, ~~the Participant Local Government Advisory Council~~, and the Joint Legislative Auditing Committee. As soon as practicable, but no later than 30 days after completion of the audit, the trustees shall report to the Joint Legislative Auditing Committee that the trustees have reviewed the audit of the trust fund and shall certify that any necessary items are being addressed by a corrective action plan that includes target completion dates.

~~(10)(a) There is created a six-member Participant Local Government Advisory Council for the purposes of regularly reviewing the administration of the trust fund and making recommendations regarding such administration to the trustees. The members of the council shall be appointed by the board and subject to confirmation by the Senate. Members must possess special knowledge, experience, and familiarity obtained through active, long-standing, and material participation in the dealings of the trust fund. Each member shall serve a 4-year term. Any vacancy shall be filled for the remainder of the unexpired term. The council shall annually elect a chair and vice chair from within its membership. A member may not serve consecutive terms as chair or vice chair.~~

~~(b) The council shall prepare and submit a written biennial report to the board, trustees, the Investment Advisory Council, and the Joint Legislative Auditing Committee that describes the activities and recommendations of the council.~~

Section 2. Paragraph (c) of subsection (2) and paragraph (a) of subsection (3) of section 218.421, Florida Statutes, are amended to read:

218.421 Fund B Surplus Funds Trust Fund; purpose; rulemaking; administration; reporting.—

(2)

(c) The investment policy shall be reviewed and approved by the trustees upon the transfer of the funds into the trust fund or when market changes dictate, and in each event, the investment policy shall be reviewed by the Investment Advisory Council ~~and by the Participant Local Government Advisory Council.~~

(3)(a) The board or a professional money management firm shall provide a report at a minimum, monthly, or upon the occurrence of a material event, to every participant having a beneficial interest in the trust fund, the board's executive director, the trustees, the Joint Legislative Auditing Committee, ~~and the Investment Advisory Council, and the Participant Local Government Advisory Council.~~ The report shall include:

1. Reports of any material impacts on the trust fund, and any actions or escalations taken by staff to address such impacts. The trustees shall provide quarterly a report to the Joint Legislative Auditing Committee that the trustees have reviewed and approved the monthly reports and actions taken, if any, to address any impacts.

2. A management summary that provides an analysis of the status of the current investment portfolio and the individual transactions executed over the last month. This management summary shall be prepared in a manner that will allow anyone to ascertain whether investment activities during the reporting period have conformed to investment policies. Such reporting shall be in conformance with best market practices.

3. The board or a professional money management firm shall furnish upon request the details of an investment transaction to any participant, the trustees, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council.~~

Section 3. Section 218.422, Florida Statutes, is amended to read:

218.422 Fund B Surplus Funds Trust Fund; review.—Unless the Fund B Surplus Funds Trust Fund has been terminated by law or through self-liquidation, prior to the 2013 Regular Session of the Legislature, the Auditor General shall review the trust fund and the steps taken up to that time to return as much of the principal to the participants as possible and provide a summary report to the board, the trustees, the President of the Senate, the Speaker of the House of Representatives, and the Investment Advisory Council, ~~and the Participant Local Government Advisory Council.~~

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor March 30, 2018.

Filed in Office Secretary of State March 30, 2018.