1984

Session Law 84-057

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Sess. Law # 84-59  Sec. #  LOF cite  1/1/134-135
Prime Bill # HB, 150  Comp./Sim. Bills SB, 171
JLMC Hist. Senate 59  Comms. of Senate of Ref. Info
Cites House 52-53  House Comm. Ref. Info

COMMITTEE RECORDS

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NOTES
A bill to be entitled
An act relating to local government; amending
ss. 125.31 and 166.261, F.S., increasing the
authority of counties and municipalities to
invest surplus funds; providing an effective
date.

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

Section 1. Subsection (1) of section 125.31, Florida
Statutes, is amended to read:

125.31 Investment of surplus public funds;
regulations.--
(1) Unless otherwise authorized by law or by
ordinance, the board of county commissioners shall, by
resolution to be adopted from time to time, invest and
reinvest any surplus public funds in its control or possession
in:
(a) The Local Government Surplus Funds Trust Fund;
(b) Negotiable direct obligations of, or obligations
the principal and interest of which are unconditionally
guaranteed by, the United States Government at the then
prevailing market price for such securities;
(c) Interest-bearing time deposits or savings accounts
in banks organized under the laws of this state, in national
banks organized under the laws of the United States and doing
business and situated in this state, in savings and loan
associations which are under state supervision, or in federal
savings and loan associations located in this state and
organized under federal law and federal supervision, provided

CODING Words in wavy through type are deletions from existing law, words underlined are additions.
that any such deposits are secured by collateral as may be
prescribed by law; or
(d) Obligations of the federal farm credit banks; the
Federal Home Loan Mortgage Corporation, including Federal Home
Loan Mortgage Corporation participation certificates; or the
Federal Home Loan Bank or its district banks or obligations
guaranteed by the Government National Mortgage Association;
or
(e) Obligations of the Federal National Mortgage
Association, including Federal National Mortgage Association
participation certificates and mortgage pass-through
certificates guaranteed by the Federal National Mortgage
Association.

Section 2. Subsection (1) of section 166.261, Florida
Statutes, is amended to read:

166.261 Municipalities; investments.--

1. Unless otherwise authorized, except when another
procedure is prescribed by law or by ordinance as to
particular funds, the governing body of each municipality
shall, by resolution to be adopted from time to
time, invest and reinvest any surplus public funds in its
control or possession in:
(a) The Local Government Surplus Funds Trust Fund;
(b) Negotiable direct obligations of, or obligations
the principal and interest of which are unconditionally
guaranteed by, the United States Government at the then
prevailing market price for such securities;
(c) Interest-bearing time deposits or savings accounts
in banks organized under the laws of this state, in national
banks organized under the laws of the United States and doing
business and situated in this state, in savings and loan

CODING Words in struck through type are deletions from existing law, words underlined are additions.
STAFF SUMMARY AND ANALYSIS

HB 150 by Tobin
relating to municipal investments
Other Committees of Reference: None

DATE: December 15, 1983
REVISED: ___________
REVISED: ___________
IDENTICAL*/SIMILAR BILLS:
yet to be determined
EFFECTIVE DATE: ________
upon becoming a law

I. SUMMARY AND PURPOSE

Pursuant to s. 166.261, Florida Statutes, municipalities are directed to invest their surplus public funds in certain specified investments. This bill would permit municipalities to place their surplus public funds in any investment authorized by ordinance.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

Section 166.261(1), F.S., now provides that "except when another procedure is prescribed by law or by ordinance as to particular funds the governing body of each municipality shall, by resolutions to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in" specified investments. (emphasis supplied).

Many municipalities have interpreted this language as permitting investments which are not enumerated in this section so long as an appropriate ordinance has been adopted. This interpretation rests on the broad home rule powers which are extended to municipalities by Article VIII, section 2(b), Florida Constitution, and by chapter 166, Florida Statutes. However, concern about the propriety of these other investments prompted the City of Fort Lauderdale to seek an opinion of the Attorney General as to the meaning of these provisions.

In a letter to Assistant Attorney General Anne Terry, dated June 27, 1983, James R. Wolf, General Counsel to the Florida League of Cities, wrote:
"An opinion stating that these investments are illegal would have a deleterious effect for the following reasons:

1. The legality of these previous investments would be questioned.

2. Such an opinion would possibly subject individual municipal officers to liability for going past their statutory authority.

3. It would require an immediate reinvestment of municipal funds possibly in a manner that would require them to pay penalties or lose interest.

4. It would preclude municipalities from having flexibility in investments in the changing markets of the day."

Notwithstanding these concerns, the Attorney General rendered his opinion on September 20, 1983, that:

"Unless and until legislatively or judicially determined otherwise,...the governing body of a municipality is not empowered to invest or reinvest its surplus public funds in commercial paper and banker's acceptances, or in any other deposit accounts, obligations or securities other than those enumerated in s. 166.261(1), F.S." A.G.O. 83-60, pp. 8,9.

Section 166.261 was enacted by chapter 77-394. In trying to determine the legislative intent of this enactment, the Attorney General noted that the title of that act reads in part:

"Creating ss. 166.261...; requiring...the governing bodies of municipalities...to invest surplus public funds in [specified investments]." (emphasis supplied).

With respect to the meaning of the language used in the act, the Attorney General opined:

"To construe the first phrase of section 166.261(1) to mean and so as to effectuate what your inquiry suggests, i.e., that the city may invest its surplus funds in any investment product it chooses or in any form or kind of investment other than those enumerated in section 166.261, as amended, if authorized by ordinance, would vest in the governing body of a municipality the power to simply ignore, if not nullify the Legislature's direction to invest its surplus funds as prescribed by section 166.261.... Therefore, any investments in any such unauthorized securities and any ordinance or resolution or other form of legislative action providing therefore would directly conflict with section 166.261(1) and must fail or yield to the statute...." A.G.O. 83-60, pp.7,8.
"Municipal ordinances are inferior to state law and must fail when conflict arises."
City of Miami Beach v. Rocio Corp., 404 So.2d 1066 at 1069 (Fla. 3rd DCA, 1981).

B. EFFECT OF PROPOSED CHANGES

In lieu of the present provision, the bill would require the investment of surplus municipal funds in these specified types of investments "unless otherwise authorized by law or by ordinance." With the authority provided in the bill, the governing body of a municipality could, by the adoption of an appropriate ordinance, authorize the investment of surplus municipal funds in any type of investment, subject to the restrictions of any other applicable law.

One such law is the Florida Security for Public Deposits Act, chapter 280, F.S. That act requires that deposits of public funds, including surplus municipal funds, be placed only in "qualified public depositories," which term is defined to include only banks and savings associations the principal place of business of which is located in this state and which have complied with the requirements of that act. Consequently, a municipal ordinance which authorized a deposit of municipal funds in an out-of-state bank or savings and loan association would be contrary to the provisions of chapter 280 and would thus be an invalid exercise of the municipality's home rule authority. The bill would, however, permit the direct investment of municipal funds in such investments as commercial paper and bankers acceptances without restriction.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

The bill should have little impact in the private sector. Some money that had previously been invested in certificates of deposit in out-of-state banks or S&Ls may now be deposited in Florida financial institutions. However, this transfer of funds appears to be required by chapter 280 and would not be affected by this bill.

B. PUBLIC SECTOR CONSIDERATIONS

Likewise, the impact in the public sector should be slight. To the extent that the bill merely legitimates certain types of investments that municipalities have previously been making, the earnings on those investments would not be affected. Moreover, the types of investment that would be permitted by the bill are, generally, the same types of investment that are made by the Local Government Surplus Funds Trust Fund which municipalities are already authorized to invest in. Consequently, although municipalities would have the opportunity to make these types of investments directly for their own accounts, their expected earnings should not be greatly different from those that are paid by the trust fund.

IV. COMMENTS

Since the bill would authorize certain types of investment that, in the opinion of the Attorney General, are not now permitted, but that have admittedly been made by a number of municipalities, the primary effect of the bill may be to absolve municipal officials from potential liability for investing public funds in a manner contrary to law.

The changes proposed by the bill are identical to changes that were enacted last session with respect to investments of
county surplus funds, section 125.31(1), F.S., as amended by chapter 83-193, Laws of Florida. Unless there is some reason that the investment authority for counties and municipalities should not be the same, the committee should keep this other provision in mind when considering any amendments to this bill.

It should be noted that, in the opinion of staff, the bill would not authorize municipalities (and, similarly, chapter 83-193, Laws of Florida, does not authorize counties) to deposit public funds in out-of-state financial institutions. Since some municipalities have made a practice of investing in out-of-state CDs, the committee may wish to consider an appropriate amendment to chapter 280 to authorize such investments.

V. AMENDMENTS

Prepared by: Rod Jones

Staff Director: Wyatt T. Martin
I. SUMMARY

A. Present Situation:

Section 166.261, Florida Statutes, provides that "except when another procedure is prescribed by law or ordinance as to particular funds, the governing body of each municipality shall...invest and reinvest surplus public funds ...in [specified investments]." (emphasis added)

A large number of municipalities have interpreted this language in conjunction with the broad home rule powers of municipalities in Article VIII, Section 2(b), Florida Constitution, to authorize the investment of funds in financial instruments which have not been specified in Section 166.261, Florida Statutes.

The Attorney General has issued an opinion (AGO 83-60) which evaluated the authority of municipalities to invest in other instruments not specifically enumerated in Section 166.261, Florida Statutes. The opinion centered on the interpretation of legislative intent. Section 166.261, Florida Statutes, was enacted by Chapter 77-394, Laws of Florida, and the title stated in part:

"creating ss.166.261...; requiring...municipalities...to invest surplus public funds in [specified investments]." (emphasis added)

In interpreting legislative intent from the title, the Attorney General opined that:

"To construe the first phrase of Section 166.261(1) [to authorize investments not specifically enumerated]...would vest in the governing body of a municipality the power to simply ignore, if not nullify, the
Legislature's direction...Therefore, any investments in such unauthorized securities...must fail or yield to the statute...AGO.83-60.

B. **Effect of Proposed Changes:**

This bill would require the investments of surplus municipal funds in specified types of investments "unless otherwise authorized by law or ordinance." A municipality could then expand the list of legally acceptable securities by adopting an appropriate local ordinance. Section 166.261(6), Florida Statutes, establishes the only restriction to local authority in that the provisions of this section shall be supplemental to other laws relating to legal investments of municipalities. In other words, other restrictions contained in general or special law would supercede the provisions of Section 166.261, Florida Statutes.

One such restriction to municipal investment authority is in, Chapter 280, Florida Statutes, the Florida Security for Public Deposits Act, which requires that deposits of public funds, including surplus municipal funds, be placed only in "qualified public depositories." The term is defined to include only banks and saving associations whose principal place of business is located within this state. As a result, a municipal ordinance could not legally authorize a deposit of municipal funds in an out-of-state bank or savings and loan.

C. **Section by Section Analysis:**

**Section 1** -- This section amends Section 166.261(1), Florida Statutes, to allow for the investment of surplus funds by municipalities in those securities which have been authorized by local ordinance or resolution, subject to certain restrictions.

**Section 2** -- This act shall take effect upon becoming a law.

II. **ECONOMIC IMPACT**

A. **Public:**

The effect of the amendatory language should be minimal on the public sector. The type of investment that this bill would authorize is primarily the same type of investment that municipalities make through the Local Government Surplus Funds Trust Fund. As a
result, the earnings that would accrue to the affected municipality should not significantly differ from those that are paid by the trust fund.

B. Private:

As in the public sector, the bill should have little impact on the private sector. The language of the bill essentially legitimizes investment practices already being followed by many municipalities.

III. COMMENTS

This language is identical to changes enacted in the 1983 Session concerning investments of surplus county funds, Section 125.31(1), Florida Statutes, as amended by Chapter 83-193, Laws of Florida. The primary effect of this bill may be to eliminate municipalities from any future potential liability with respect to the investment of public funds.

IV. AMENDMENTS

V. PREPARED BY Charles E. Scarlett

VI. STAFF DIRECTOR Mike Cusick

VII. COPY TO SPONSOR
BILL# CS/HB 150

SPONSOR Community Affairs Cte.

& Rep. Tobin

RELATING TO Investment of

County & Municipal Surplus

Trust Fund

I. SUMMARY

A. Present Situation:

The Legislature, in 1983, passed HB 1056 which amended s. 125.31, F.S., to give counties the authority to invest in certain enumerated investments "unless otherwise authorized by law or by ordinance..." This new language gave counties the opportunity to expand the type of available investments through law (general or special) or by (local) ordinance.

Until the passage of HB 1056, s. 166.261, F.S., provided identical authority for the investment of municipal surplus funds. Section 166.261, F.S., currently provides that "except when another procedure is prescribed by law or ordinance as to particular funds, the governing body of each municipality shall...invest and reinvest surplus public funds...in (specified investments)." (emphasis added)

A large number of municipalities have interpreted 166.261, F.S., in conjunction with the broad home rule powers for municipalities in Article VIII, section 2(b), Florida Constitution, to authorize the investment of funds in financial instruments which have not been specified in s. 166.261, Florida Statutes.

The Attorney General issued an opinion (AGO 83-60) which disallowed the use of investments not specifically enumerated in s. 166.261, F.S.
B. **Effect of Proposed Changes:**

This bill would accomplish two things. It amends s. 125.31, F.S., and s. 166.261, F.S., to include obligations of the Federal National Mortgage Association in the enumerated list for counties and municipalities respectively.

Secondly, the bill would allow a municipality to expand the list of legally-acceptable securities by adopting an appropriate local ordinance.

C. **Section by Section Analysis:**

Section 1 -- This section amends s. 125.31(1), F.S., by adding a new subsection (e) which would authorize the county to invest in Federal National Mortgage Association certificates.

Section 2 -- This section amends s. 166.261(1), F.S., to allow for the investment of surplus funds by municipalities in those securities which have been authorized by local ordinance or resolution, subject to certain statutory restrictions.

Section 3 -- This act shall take effect upon becoming a law.

II. **ECONOMIC IMPACT**

A. **Public:**

The effect of the amendatory language should be minimal on the public sector. The type of investment that this bill would authorize is primarily the same type of investment that municipalities make through the Local Government Surplus Funds Trust Fund. As a result, the earnings that would accrue to the affected municipality should not significantly differ from those that are paid by the trust fund.

B. **Government:**

As in the public sector, the bill should have little impact on the government sector. The language of the bill essentially legitimizes investment practices already being followed by many municipalities.
III. COMMENTS

Section 166.261(6), F.S., establishes the only restriction to local authority in that the provisions of this section shall be supplemental to other laws relating to legal investments of municipalities. In other words, other restrictions contained in general or special law would supercede the provisions of s. 166.261, F.S.

One such restriction to municipal investment authority is in Chapter 280, F.S., the Florida Security for Public Deposits Act, which requires that deposits of public funds, including surplus municipal funds, be placed only in "qualified public depositories." The term is defined to include only banks and saving associations whose principal place of business is located within this state. As a result, a municipal ordinance could not legally authorize a deposit of municipal funds in an out-of-state bank or savings and loan.

The primary effect of this bill may be to eliminate municipalities from any future potential liability with respect to the investment of public funds based upon AGO 83-60.

IV. AMENDMENTS

V. PREPARED BY Charles E. Scarlett

VI. STAFF DIRECTOR Mike Cusick

VII. COPY TO SPONSOR
HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMUNITY AFFAIRS
STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

BILL# CS/HB 150
SPONSOR Community Affairs Cte.
& Rep. Tobin
RELATING TO Investment of County & Municipal Surplus
Trust Fund

I. SUMMARY
A. Present Situation:

The Legislature, in 1983, passed HB 1056 which amended s. 125.31, F.S., to give counties the authority to invest in certain enumerated investments "unless otherwise authorized by law or by ordinance..." This new language gave counties the opportunity to expand the type of available investments through law (general or special) or by (local) ordinance.

Until the passage of HB 1056, s. 166.261, F.S., provided identical authority for the investment of municipal surplus funds. Section 166.261, F.S., currently provides that "except when another procedure is prescribed by law or ordinance as to particular funds, the governing body of each municipality shall...invest and reinvest surplus public funds...in (specified investments)." (emphasis added)

A large number of municipalities have interpreted 166.261,F.S., in conjunction with the broad home rule powers for municipalities in Article VIII, section 2(b), Florida Constitution, to authorize the investment of funds in financial instruments which have not been specified in s. 166.261, Florida Statutes.

The Attorney General issued an opinion (AGO 83-60) which disallowed the use of investments not specifically enumerated in s. 166.261, F.S.
B. Effect of Proposed Changes:

This bill would accomplish two things. It amends s. 125.31, F.S., and s. 166.261, F.S., to include obligations of the Federal National Mortgage Association in the enumerated list for counties and municipalities respectively.

Secondly, the bill would allow a municipality to expand the list of legally-acceptable securities by adopting an appropriate local ordinance.

C. Section by Section Analysis:

Section 1 -- This section amends s. 125.31(1), F.S., by adding a new subsection (e) which would authorize the county to invest in Federal National Mortgage Association certificates.

Section 2 -- This section amends s. 166.261(1), F.S., to allow for the investment of surplus funds by municipalities in those securities which have been authorized by local ordinance or resolution, subject to certain statutory restrictions.

Section 3 -- This act shall take effect upon becoming a law.

II. ECONOMIC IMPACT

A. Public:

The effect of the amendatory language should be minimal on the public sector. The type of investment that this bill would authorize is primarily the same type of investment that municipalities make through the Local Government Surplus Funds Trust Fund. As a result, the earnings that would accrue to the affected municipality should not significantly differ from those that are paid by the trust fund.

B. Government:

As in the public sector, the bill should have little impact on the government sector. The language of the bill essentially legitimizes investment practices already being followed by many municipalities.
III. COMMENTS

Section 166.261(6), F.S., establishes the only restriction to local authority in that the provisions of this section shall be supplemental to other laws relating to legal investments of municipalities. In other words, other restrictions contained in general or special law would supercede the provisions of s. 166.261, F.S.

One such restriction to municipal investment authority is in Chapter 280, F.S., the Florida Security for Public Deposits Act, which requires that deposits of public funds, including surplus municipal funds, be placed only in "qualified public depositories." The term is defined to include only banks and saving associations whose principal place of business is located within this state. As a result, a municipal ordinance could not legally authorize a deposit of municipal funds in an out-of-state bank or savings and loan.

The primary effect of this bill may be to eliminate municipalities from any future potential liability with respect to the investment of public funds based upon AGO 83-60.

IV. AMENDMENTS

None.

V. END OF SESSION UPDATE

Enrolled. Approved by Governor, Ch. 84-57

VI. PREPARED BY Charles E. Scarlett

VII. STAFF DIRECTOR Mike Cusick

VIII. COPY TO SPONSOR
A bill to be entitled
An act relating to municipalities; amending s.
166.261, F.S., increasing the authority of
municipalities to invest surplus funds;
providing an effective date.

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

Section 1. Subsection (1) of section 166.261, Florida
Statutes, is amended to read:

166.261 Municipalities; investments.--

(1) Unless otherwise authorized, except when another
procedure is prescribed by law or by ordinance as to
particular funds, the governing body of each municipality
shall, by resolutions to be adopted from time to time, invest
and reinvest any surplus public funds in its control or
possession in:

(a) The Local Government Surplus Funds Trust Fund;

(b) Negotiable direct obligations of, or obligations
the principal and interest of which are unconditionally
guaranteed by, the United States Government at the then
prevailing market price for such securities;

(c) Interest-bearing time deposits or savings accounts
in banks organized under the laws of this state, in national
banks organized under the laws of the United States and doing
business and situated in this state, in savings and loan
associations which are under state supervision, or in federal
savings and loan associations located in this state and
organized under federal law and federal supervision, provided
that any such deposits are secured by collateral as may be
prescribed by law; or
(d) Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.

Section 2. This act shall take effect upon becoming a law.

**********************************************************************

HOUSE SUMMARY

Increases the authority of municipalities to invest surplus funds.

CODING Words in normal type are deletions from existing law. Words underlined are additions.
Flor. Senate - 1984

SB 171

By Senator Weinstein
29-247-84

A bill to be entitled
An act relating to municipalities, amending s
166.261, F.S., increasing the authority of
municipalities to invest surplus funds,
providing an effective date

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

Section 1. Subsection (1) of section 166.261, Florida
Statutes, is amended to read

166.261 Municipalities, investments --
(1) Unless otherwise authorized except when another
procedure is prescribed by law or by ordinance as to
particular funds, the governing body of each municipality
shall, by resolutions to be adopted from time to time, invest
and reinvest any surplus public funds in its control or
possession in:

(a) The Local Government Surplus Funds Trust Fund,
(b) Negotiable direct obligations of, or obligations
the principal and interest of which are unconditionally
guaranteed by, the United States Government at the then
prevailing market price for such securities,
(c) Interest-bearing time deposits or savings accounts
in banks organized under the laws of this state, in national
banks organized under the laws of the United States and doing
business and situated in this state, in savings and loan
associations which are under state supervision, or in federal
savings and loan associations located in this state and
organized under federal law and federal supervision, provided
that any such deposits are secured by collateral as may be
prescribed by law, or

CODING Words in italics through type are deletions from existing law, words underlined are additions.
(d) Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.

Section 2

This act shall take effect upon becoming a law.

HOUSE SUMMARY

Increases the authority of municipalities to invest surplus funds.
I. SUMMARY:

A. Present Situation:

Section 166.261, Florida Statutes, provides that "Except when another procedure is prescribed by law or by ordinance as to particular funds, . . ." the governing body of each municipality shall invest any surplus public funds in certain authorized investments:

1. The Local Government Surplus Funds Trust Fund;
2. Negotiable obligations of or guaranteed by the United States Government;
3. Interest-bearing time deposits or savings accounts in banks or savings and loan associations located in Florida which are regulated by the state or federal government; and

The Local Government Surplus Funds Trust Fund (s. 218.405, F.S.) is administered by the State Board of Administration, and authorized investments of the Fund include those listed in 1-4 above as well as certain other instruments (ss. 218.407 and 215.47, F.S.).

The provisions of section 166.261, Florida Statutes, are supplemental to other laws relating to the legal investments of municipalities (s. 166.261(6), F.S.), and the Florida Security for Public Deposits Act (ch. 280, F.S.) regulates public deposits of municipalities. No public deposit may be made except in a qualified public depository, defined as a bank or savings and loan institution organized under state or federal law with its principal place of business located in the state (ss. 280.03 and 280.02(3), F.S.).

B. Effect of Proposed Changes:

The bill changes the language "Except when another procedure is prescribed by law or by ordinance as to particular funds . . ." to "Unless otherwise authorized by law or ordinance . . .". This allows a municipal governing body to invest surplus funds in ways other than those enumerated in section 166.261(1), Florida Statutes, through the passage of an ordinance.
containing general authority regarding the investment of such funds.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:
None.

B. Government:

The bill has no impact on municipalities which continue to invest surplus funds as prescribed in section 166.261, Florida Statutes. It is not possible to determine the impact of the bill on municipalities which invest surplus funds in instruments other than those provided in section 166.261(1)(a)-(d), Florida Statutes. If a municipality invests in instruments such as those authorized in the Local Government Surplus Funds Trust Fund, its earnings may be comparable or possibly less than the Fund. According to a representative at the State Board of Administration, it can command a higher interest rate than a smaller investor by pooling the dollars deposited in the Fund. The Board can take advantage of short-term instruments and maintain good liquidity because of the volume of its investments. The rates of return on local government investments made independently would depend upon the amount of money being invested, as would the liquidity which could be maintained.

III. COMMENTS:

The identical language change contained in this bill was made with respect to the investment of surplus funds by county commissions in section 125.31(1), Florida Statutes, in 1983 (ch. 83-193, L.O.F.).

The authority of municipalities to invest surplus funds was the subject of an Attorney General's Opinion issued September 20, 1983 (AGO 83-60). That opinion stated that "unless provided by law relating to and providing for the legal investments of municipalities, the governing body of a municipality is not empowered to invest or reinvest its surplus public funds in commercial paper and bankers acceptances, or in any other deposit accounts, obligations or securities other than those enumerated in s. 166.261(1), F.S." The Attorney General's 1984 Legislative Report recommended that the statute be amended to clarify the authority of municipalities to choose, by ordinance, investments other than those enumerated.

An identical bill, HB 150, has been filed in the House.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Section 166.261, Florida Statutes, provides that "Except when another procedure is prescribed by law or by ordinance as to particular funds . . ." the governing body of each municipality shall invest any surplus public funds in certain authorized investments:

1. The Local Government Surplus Funds Trust Fund;
2. Negotiable obligations of or guaranteed by the United States Government;
3. Interest-bearing time deposits or savings accounts in banks or savings and loan associations located in Florida which are regulated by the state or federal government; and
4. Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.

The Local Government Surplus Funds Trust Fund (s. 218.405, F.S.) is administered by the State Board of Administration, and authorized investments of the Fund include those listed in 1-4 above as well as certain other instruments (ss. 218.407 and 215.47, F.S.).

The provisions of section 166.261, Florida Statutes, are supplemental to other laws relating to the legal investments of municipalities (s. 166.261(6), F.S.), and the Florida Security for Public Deposits Act (ch. 280, F.S.) regulates public deposits of municipalities. No public deposit may be made except in a qualified public depository, defined as a bank or savings and loan institution organized under state or federal law with its principal place of business located in the state (ss. 280.03 and 280.02(3), F.S.).

B. Effect of Proposed Changes:

The bill changes the language "Except when another procedure is prescribed by law or by ordinance as to particular funds . . ." to "Unless otherwise authorized by law or ordinance . . . ." This allows a municipal governing body to invest surplus funds in ways other than those enumerated in section 166.261(1), Florida Statutes, through the passage of an ordinance.
containing general authority regarding the investment of such funds.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The bill has no impact on municipalities which continue to invest surplus funds as prescribed in section 166.261, Florida Statutes. It is not possible to determine the impact of the bill on municipalities which invest surplus funds in instruments other than those provided in section 166.261(1)(a)-(d), Florida Statutes. If a municipality invests in instruments such as those authorized in the Local Government Surplus Funds Trust Fund, its earnings may be comparable or possibly less than the Fund. According to a representative at the State Board of Administration, it can command a higher interest rate than a smaller investor by pooling the dollars deposited in the Fund. The Board can take advantage of short-term instruments and maintain good liquidity because of the volume of its investments. The rates of return on local government investments made independently would depend upon the amount of money being invested, as would the liquidity which could be maintained.

III. COMMENTS:

The identical language change contained in this bill was made with respect to the investment of surplus funds by county commissions in section 125.31(1), Florida Statutes, in 1983 (ch. 83-193, L.O.F.).

The authority of municipalities to invest surplus funds was the subject of an Attorney General's Opinion issued September 20, 1983 (AGO 83-60). That opinion stated that "unless provided by law relating and providing for the legal investments of municipalities, the governing body of a municipality is not empowered to invest or reinvest its surplus public funds in commercial paper and bankers acceptances, or in any other deposit accounts, obligations or securities other than those enumerated in s. 166.261(1), F.S." The Attorney General's 1984 Legislative Report recommended that the statute be amended to clarify the authority of municipalities to choose, by ordinance, investments other than those enumerated.

The provisions in this bill were contained in CS/HB 150, which was approved by the Governor on May 29, 1984, and appears as chapter 84-57, Laws of Florida.

IV. AMENDMENTS:

None.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Ekholm
2. Keating
3. Beggs

STAFF DIRECTOR
Burnside

REFERENCE
1. ECCA
2. F&T
3. Pav/3 amends.

ACTION
Fav

SUBJECT:
Municipalities

BILL NO. AND SPONSOR:
SB 171 by Senator Weinstein

I. SUMMARY:

A. Present Situation:

Section 166.261, Florida Statutes, provides that "Except when another procedure is prescribed by law or by ordinance as to particular funds, . . ." the governing body of each municipality shall invest any surplus public funds in certain authorized investments:

1. The Local Government Surplus Funds Trust Fund;
2. Negotiable obligations of or guaranteed by the United States Government;
3. Interest-bearing time deposits or savings accounts in banks or savings and loan associations located in Florida which are regulated by the state or federal government; and
4. Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.

The Local Government Surplus Funds Trust Fund (s. 218.405, F.S.) is administered by the State Board of Administration, and authorized investments of the Fund include those listed in 1-4 above as well as certain other instruments (ss. 218.407 and 215.47, F.S.).

The provisions of section 166.261, Florida Statutes, are supplemental to other laws relating to the legal investments of municipalities (s. 166.261(6), F.S.), and the Florida Security for Public Deposits Act (ch. 280, F.S.) regulates public deposits of municipalities. No public deposit may be made except in a qualified public depository, defined as a bank or savings and loan institution organized under state or federal law with its principal place of business located in the state (ss. 280.03 and 280.02(3), F.S.).

B. Effect of Proposed Changes:

The bill changes the language "Except when another procedure is prescribed by law or by ordinance as to particular funds . . ." to "Unless otherwise authorized by law or ordinance . . . ." This allows a municipal governing body to invest surplus funds in ways other than those enumerated in section 166.261(1), Florida Statutes, through the passage of an ordinance.
II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The bill has no impact on municipalities which continue to invest surplus funds as prescribed in section 166.261, Florida Statutes. It is not possible to determine the impact of the bill on municipalities which invest surplus funds in instruments other than those provided in section 166.261(1)(a)-(d), Florida Statutes. If a municipality invests in instruments such as those authorized in the Local Government Surplus Funds Trust Fund, its earnings may be comparable or possibly less than the Fund. According to a representative at the State Board of Administration, it can command a higher interest rate than a smaller investor by pooling the dollars deposited in the Fund. The Board can take advantage of short-term instruments and maintain good liquidity because of the volume of its investments. The rates of return on local government investments made independently would depend upon the amount of money being invested, as would the liquidity which could be maintained.

III. COMMENTS:

The identical language change contained in this bill was made with respect to the investment of surplus funds by county commissions in section 125.31(1), Florida Statutes, in 1983 (ch. 83-193, L.O.F.).

The authority of municipalities to invest surplus funds was the subject of an Attorney General’s Opinion issued September 20, 1983 (AGO 83-60). That opinion stated that “unless provided by law relating to and providing for the legal investments of municipalities, the governing body of a municipality is not empowered to invest or reinvest its surplus public funds in commercial paper and bankers acceptances, or in any other deposit accounts, obligations or securities other than those enumerated in s. 166.261(1), F.S.” The Attorney General’s 1984 Legislative Report recommended that the statute be amended to clarify the authority of municipalities to choose, by ordinance, investments other than those enumerated.

An identical bill, HB 150, has been filed in the House.

This bill will take effect upon becoming a law.

IV. AMENDMENTS:

#1 by Senate FT&C:
Obligations by the Federal Mortgage Association are added to the list of investments that municipalities are authorized to make with their surplus funds.

#2 by Senate FT&C:
Adds the identical language found in amendment #1 to section 125.31, F.S., which deals with county investments.

#3 by Senate FT&C:
Title Amendment.
The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator .......... and adopted:

**Amendment**

On page 1, line 31, and

On page 2, lines 1-6, strike all of said lines

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<th>Bill No.</th>
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(d) Obligations of the federal farm credit banks; the Federal Home Loan Mortgage Corporation, including Federal Home Loan Mortgage Corporation participation certificates; or the Federal Home Loan Bank or its district banks or obligations guaranteed by the Government National Mortgage Association; or

The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator............... and adopted: and failed:

Amendment

On page ....2....., line .....7....., 

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes

insert:

Section 2. Subsection (1) of section 125.31, Florida Statutes, is amended to read:

125.31 Investment of surplus public funds;
regulations.--

(1) Unless otherwise authorized by law or by ordinance, the board of county commissioners shall, by resolution to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

(a) The Local Government Surplus Funds Trust Fund;
(b) Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities;
(c) Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and...
organized under federal law and federal supervision, provided
that any such deposits are secured by collateral as may be
prescribed by law; or

(d) Obligations of the federal farm credit banks; the
Federal Home Loan Mortgage Corporation, including Federal Home
Loan Mortgage Corporation participation certificates; or the
Federal Home Loan Bank or its district banks or obligations
guaranteed by the Government National Mortgage Association; or

(e) Obligations of the Federal National Mortgage
Association, including Federal National Mortgage Association
participation certificates and mortgage pass-through
certificates guaranteed by the Federal National Mortgage
Association.

(renumber subsequent sections)