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**S 787 GENERAL BILL/CS/1ST ENG by Appropriations; Bankhead and others (Compare H 577)**

~~State Investments/Arbitrage Law~~; authorizes Treasurer to invest in certain obligations of state & local govts.; provides that Bond Finance Div. of D.G.S. has authority to direct agencies to comply with federal arbitrage laws; allows division to adopt by resolution schedule of fees & expenses; creates Arbitrage Compliance T.F. to pay certain expenses of div.; provides that div. is responsible for ensuring compliance with federal arbitrage law, etc. Amends 18.10, 897.203, Ch. 215. Appropriation: \$600,000. Effective Date: 07/05/89.

03/29/89 SENATE Prefiled

04/07/89 SENATE Introduced, referred to Finance, Taxation and Claims; Appropriations -SJ 112

04/11/89 SENATE On Committee agenda—Finance, Taxation and Claims, 04/13/89, 9:30 am, Room-1C-(309)

04/13/89 SENATE Comm. Report: Favorable by Finance, Taxation and Claims -SJ 124

04/14/89 SENATE Now in Appropriations -SJ 124

05/03/89 SENATE Extension of time granted Committee Appropriations

05/18/89 SENATE Extension of time granted Committee Appropriations

05/19/89 SENATE On Committee agenda—Appropriations, 05/23/89, 1:00 pm, Room-A-(LL-37)

05/23/89 SENATE Comm. Report: CS by Appropriations, placed on Calendar -SJ 450

05/25/89 SENATE CS read first time -SJ 454

05/31/89 SENATE Placed on Special Order Calendar -SJ 618; CS passed; YEAS 37 NAYS 0 -SJ 674

05/31/89 HOUSE In Messages

06/01/89 HOUSE Received, placed on Calendar; Taken up in lieu of HB 577; Read second time; Amendments adopted; Read third time; CS passed as amended; YEAS 106 NAYS 1 -HJ 1001

06/01/89 SENATE In Messages

06/02/89 SENATE Concurred; CS passed as amended; YEAS 37 NAYS 0 -SJ 873

06/02/89 Ordered engrossed, then enrolled -SJ 873

06/20/89 Signed by Officers and presented to Governor

07/05/89 Approved by Governor; Chapter No. 89-287

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

REVISED: May 23, 1989BILL NO. CS/SB 787DATE: May 20, 1989Page 1

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Boyle	Beggs	1. FTC	Favorable
2. Barrett	Smith	2. AP	Fav/CS
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

## SUBJECT:

Investment of State Funds

## BILL NO. AND SPONSOR:

CS/SB 787 by Appropriations  
Senator BankheadI. SUMMARY:

## A. Present Situation:

Section 18.125, F.S., directs the State Treasurer, acting with the approval of a majority of the State Board of Administration, to invest, pursuant to s. 18.10, F.S., all general revenue funds, all trust funds, and all agency funds of each state agency, except funds in the Florida Retirement System Trust Fund and any other funds required to be invested by the State Board of Administration. Section 18.10(2), F.S., governs deposits and investments of such money in certain securities for short periods of time of not more than 90 days.

One such type of security is a time draft or bill of exchange drawn on and accepted by a commercial bank which is a member bank of the Federal Reserve system having total deposits of at least \$400 million, a bankers acceptance. Another type is an intermediate-term note of a U.S. corporation whose long term obligations are rated in one of the three highest classifications approved by the U.S. Comptroller for the investment of funds of national banks. Section 18.10(3), F.S., which governs investment of such money which is not needed for the immediate cash requirements of the state and is not invested pursuant to s. 18.10(2) contains a provision authorizing the Treasurer to invest in short term investments of the type authorized in s. 18.10(2) if banks or savings and loan associations are unwilling to accept such money and pay the statutorily provided interest rates.

Section 697.203, F.S., provides for dual administration of the Home Equity Conversion Mortgage Guaranty Fund by the Department of Insurance and the State Board of Administration. The fund was originally established in the Department of Community Affairs and dual administration was necessary to provide the department with the expertise to efficiently and effectively administer fund investments. However, the fund is now in the Department of Insurance and the State Board of Administration no longer is involved in administering the fund.

Sections 215.57-215.83, F.S., known as the State Bond Act, provides for the issuance of bonds by this state and all agencies thereof

## B. Effect of Proposed Changes:

The bill allows the State Treasurer to invest state money in bankers acceptances issued by any bank with total deposits of at least \$400 million not just those which are members of the Federal Reserve System, in corporate master notes issued by those corporations whose intermediate term notes are among the highest rated acceptable investment securities, and in certain obligations of state and local governments. It deletes obsolete references to U.S. Comptroller approval of

classifications for investments. It removes the ambiguous and restrictive "short term" limitation on the types of securities in which the state may invest money which is intended to be invested only in appropriate intermediate or long term securities.

The bill deletes references under the Home Equity Conversion Mortgage Guaranty Fund to administration by the State Board of Administration, leaving the Department of Insurance as the sole administrative agency.

The bill amends the State Bond Act to ensure that bonds issued by this state and all agencies thereof fully comply with the arbitrage provisions of the Federal Internal Revenue Code of 1986, as amended and regulations promulgated there under.

By this change the legislature intends to give full responsibility and authority to the Division of Bond Finance of the Department of General Services to ensure compliance with the federal arbitrage provisions. And that the compliance program be fully funded through fees to be levied by the division on those governmental agencies whose bonds are subject to the program.

## II. ECONOMIC IMPACT AND FISCAL NOTE:

### A. Public:

None

### B. Government:

By being able to invest in bankers acceptances issued by foreign as well as domestic banks and in corporate master notes of certain acceptable corporations, the Treasurer gains flexibility in access to the market to obtain the highest return on state money invested at the lowest cost.

The bill appropriates \$300,000 from the Bond Fee Trust Fund for transfer to the Arbitrage Compliance Trust Fund to assist in the implementation of this act by the Division of Bond Finance. At the end of the FY any remaining funds shall be returned to the Bond Fee Trust fund.

## III. COMMENTS:

The act takes effect July 1, 1989, or upon becoming a law, whichever occurs later.

## IV. AMENDMENTS:

None.

\*\*AS PASSED BY THE 1989 LEGISLATURE\*\*

STORAGE NAME: h0577-f.go  
DATE: July 6, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 577 (CS/SB 787 passed)

RELATING TO: State Money/Investments

SPONSOR(S): Representatives Ascherl and Rehm

EFFECTIVE DATE: July 1, 1989, or upon becoming law, whichever occurs later

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-287, Laws of Florida

COMPANION BILL(S): CS/SB 787 (Compare)

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation  
(2) Appropriations

\*\*\*\*\*

I. SUMMARY:

A. SHORT SUMMARY:

The bill makes several changes to state law pertaining to the procedures for and types of investments that the State Treasurer may make. The bill authorizes the Treasurer to invest in bankers' acceptances accepted by banks that are not members of the Federal Reserve System if certain conditions are met. The bill revises certain provisions relating to state investments in intermediate-term corporate notes and allows the investment in corporate master notes, which are a new form of investment. The bill also makes clarifying changes to statutory language relating to the time period for the types of investments the Treasurer can make under certain conditions.

The bill deletes any reference to the duties of the State Board of Administration in administering the Home Equity Conversion Mortgage Guaranty Fund.

The bill also establishes a state arbitrage compliance program and gives the Division of Bond Finance of the Department of General Services the responsibility and authority to ensure that actions taken relating to bonds administered by the division on behalf of state agencies and local governments, and actions taken by state agencies relating to administration of bond proceeds, are in compliance with federal arbitrage laws. The bill creates the Arbitrage Compliance Trust Fund to fund the division's activities relating to arbitrage compliance and authorizes the division to collect fees from governmental agencies subject to

the arbitrage compliance program to fund the trust fund.

B. PRESENT SITUATION:

Section 18.10(1), Florida Statutes, authorizes the State Treasurer, with the approval of the State Board of Administration (SBA), to deposit state money in certain qualified banks or savings and loans. Section 18.10(2), Florida Statutes, further provides that state money that the SBA has approved for investment for short periods of time of not more than ninety days may be invested by the State Treasurer in a variety of obligations, certain commercial paper, certain time drafts or bills of exchange, intermediate-term notes of U.S. corporations, and certain investment funds or mutual funds. Under this section, the Treasurer is allowed to invest in time drafts or bills of exchange, or "bankers' acceptances," that are issued by banks which are members of the Federal Reserve System and which have over \$400 million in total deposits (primarily large national banking institutions). According to the Division of the Treasury of the Department of Insurance, this limits the Treasurer's flexibility in buying bankers' acceptances that provide the highest rates of return.

Section 18.10(3)(a), Florida Statutes, provides that state money which is not needed to cover immediate cash requirements and which is not invested as authorized in s. 18.10(2), Florida Statutes, is to be deposited in state banks or savings and loans that will pay rates set by the State Board of Administration (SBA). If the banks or savings and loans are unwilling to accept the money and pay the rates established by the SBA, the money may be invested in "short-term investments" of the types referred to in s. 18.10(2), Florida Statutes, which mature on dates when the money is anticipated to be needed. According to the Division of the Treasury, confusion exists as to whether the 90-day investment period referred to in s. 18.10(2), Florida Statutes, applies to these "short-term investments". Some of the types of investments authorized by s. 18.10(2), Florida Statutes, although short-term, may have maturity periods longer than ninety days.

Under s. 18.10(2), Florida Statutes, the Treasurer may invest in intermediate-term notes issued by a U.S. corporation if the corporation's long-term obligations are rated by two nationally known rating services in any one of the three highest classifications "approved by the Comptroller for the investment of funds of national banks." If the obligations are rated by only one rating service, the obligations have to be rated in any one of two highest classifications. According to the Division of the Treasury, a new type of investment, corporate master notes of U.S. corporations, is now available for short-term investments of state money as part of the state's securities lending program. Section 18.10(2)(i), Florida Statutes, does not authorize the use of corporate master notes. In addition, it appears that the reference in this section to the "Comptroller" applies to the federal Comptroller of the Currency rather than the State Comptroller. The Division of the Treasury has indicated that this language is unnecessary and confusing.

Section 697.203, Florida Statutes, establishes the Home Equity Conversion Mortgage Guaranty Fund to encourage the involvement of private sector mortgagees in issuing home equity conversion mortgages and to provide security for mortgagees in the event that deficiencies occur in mortgages upon foreclosure. The guaranty fund was created as part of the "Florida Home Equity Conversion Act" in 1984, which was designed primarily to provide persons 70 years old or older with a means of entering into home equity conversion mortgages. The guaranty fund was originally administered by the Department of Community Affairs (DCA) in conjunction with the State Board of Administration (SBA). According to the Division of the Treasury, the SBA was included in the Home Equity Conversion Program to provide financial expertise in the administration of the program because this type of expertise was not available in the DCA. In 1986, the program was transferred from the DCA to the Department of Insurance, where it currently is administered by the Division of the Treasury. The Division of the Treasury has stated that it has the financial expertise necessary to administer the program.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes the Treasurer to invest in bankers' acceptances accepted by banks that are not members of the Federal Reserve System with deposits of not less than \$400 million and that are licensed by a state government or the federal government, and whose senior debt issues are rated in one of the two highest rating categories of a nationally recognized rating service and are held in custody by a domestic bank which is a member of the Federal Reserve System. The Division of the Treasury claims that this would allow the Treasurer greater investment flexibility by allowing investment in bankers' acceptances of banks that are not members of the Federal Reserve System. This would include domestic branches of foreign banks. The bank size limitation would be unchanged.

The bill also allows the Treasurer to invest in obligations of state and local governments that are rated in one of three highest classifications by one or more national ratings services if the purpose of purchasing the obligations is to meet federal investment requirements for funds accumulated from bonds or other obligations.

The bill amends s. 18.10(2)(i), Florida Statutes, to allow the Treasurer to invest in corporate master notes of U.S. corporations in addition to intermediate-term notes issued by such corporations. The Division of the Treasury has indicated that the use of such notes would give U.S. Trust Bank of New York more flexibility in managing the state's securities lending program and would increase the state's earnings. The bill also would delete an unnecessary reference to approval by the "Comptroller" of the ratings classifications for the investment of funds of national banks.

The bill deletes the term "short-term" from the language in s.

18.10(3)(b), Florida Statutes, referring to "short-term" investments to avoid confusion with the requirement in s. 18.10(2), Florida Statutes, that provides that the Treasurer may invest state money that the State Board of Administration has approved for investment only for short periods of time of not more than ninety days.

The bill would delete any reference in s. 697.203, Florida Statutes, to the shared responsibility of the Department of Insurance and the State Board of Administration in administering the Home Equity Conversion Mortgage Guaranty Fund. The Department of Insurance would be solely responsible for administering the fund. The Division of the Treasury of the Department of Insurance has stated that actions taken by the SBA pertaining to the trust fund would be duplicative of the division's actions and that the division has the financial expertise necessary to administer the program.

The bill also establishes a state arbitrage compliance program and gives the Division of Bond Finance of the Department of General Services the responsibility and authority to ensure that actions taken relating to bonds administered by the division on behalf of state agencies and local governments, and actions taken by state agencies relating to administration of bond proceeds, are in compliance with federal arbitrage laws. The bill creates the Arbitrage Compliance Trust Fund to fund the division's activities relating to arbitrage compliance and authorizes the division to collect fees from governmental agencies subject to the arbitrage compliance program to fund the trust fund.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends s. 18.10(2)(h), Florida Statutes; authorizes the Treasurer to invest in bankers' acceptances accepted by banks that are not members of the Federal Reserve System under certain conditions; authorizes the Treasurer to invest in certain obligations of state and local governments; amends s. 18.10(2)(i), Florida Statutes; includes corporate master notes of U.S. corporations as a type of investment that the Treasurer may make; deletes language pertaining to the approval of the Comptroller of ratings classifications for investment of funds of national banks; amends s. 18.10(3)(b), Florida Statutes; deletes the term "short-term" to clarify the types of investments the Treasurer can make under certain conditions.

Section 2 -- Amends s. 697.203, Florida Statutes; removes duties of the State Board of Administration in administering the Home Equity Conversion Mortgage Guaranty Fund.

Section 3 -- Provides legislative purpose and intent with respect to state agency compliance with federal arbitrage laws as they relate to the issuance of bonds.

Section 4 -- Amends s. 215.58, Florida Statutes; provides a definition of "governmental agency".



Section 5 -- Amends s. 215.64, Florida Statutes; provides that the Division of Bond Finance has the authority to direct agencies to comply with federal arbitrage laws; provides the division with powers related to conducting investigations or proceedings.

Section 6 -- Amends s. 215.65, Florida Statutes; allows the Division of Bond Finance to adopt by resolution a schedule of fees and expenses for the state arbitrage compliance program; deletes the requirement that the State Board of Administration must approve such schedule and subsequent revisions.

Section 7 -- Creates s. 215.655, Florida Statutes; creates the Arbitrage Compliance Trust Fund to pay expenses of the Division of Bond Finance relating to arbitrage compliance activities.

Section 8 -- Amends s. 215.76, Florida Statutes; provides that the Division of Bond Finance is responsible for ensuring compliance with federal arbitrage laws; provides that governmental agencies are subject to the direction of the division as specified.

Section 9 -- Amends s. 215.83, Florida Statutes; provides that the federal arbitrage compliance functions of the Division of Bond Finance supersede any inconsistent provisions of other laws.

Section 10 -- Provides an appropriation.

Section 11 -- Provides rulemaking authority to the Division of Bond Finance.

Section 12 -- Provides that the federal arbitrage compliance functions of the Division of Bond Finance supersede any inconsistent provisions of other laws.

Section 13 -- Provides for a transfer of funds from the Bond Fee Trust Fund to the Arbitrage Compliance Trust Fund.

Section 14 -- Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

#### 1. Non-recurring or First Year Start-Up Effects:

Transfer of \$300,000 from the Bond Fee Trust Fund to the Arbitrage Compliance Trust Fund. Any money remaining in Arbitrage Compliance Trust Fund up to \$300,000 at the end of FY 1989-90 would be transferred back to the Bond Fee Trust Fund.

#### 2. Recurring or Annualized Continuation Effects:

Increase in state revenue of approximately \$200,000.

FY 89-90

FY 90-91

General Revenue	\$ 60,000	\$ 60,000
State Trust Funds	\$140,000	\$140,000

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

Increase in general revenue of \$60,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate.

2. Direct Private Sector Benefits:

Indeterminate.

3. Effects on Competition, Private Enterprise, and Employment Markets:

See Fiscal Comments.

D. FISCAL COMMENTS:

The Division of the Treasury of the Department of Insurance has indicated that the increase in revenue of \$200,000 is based on investing \$200 million annually in bankers' acceptances issued by domestic branches of foreign banks. The spread between domestic and foreign bankers' acceptances has been around 7 to 8 basis points.

The removal of the restriction on bankers' acceptances may increase competition within the private sector to provide better rates of return on state investments in bankers' acceptances.

The amount of money which would be raised by fees imposed by the Division of Bond Finance to fund the Arbitrage Compliance Trust

Fund is unknown at this time.

III. LONG RANGE CONSEQUENCES:

The bill is related to the following goals and policies of the State Comprehensive Plan:

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

5. Eliminate needless duplication of, and promote cooperation in, governmental activities between, among, and within state, regional, county, city, and other governmental units.

12. Discourage undue expansion of state government and make every effort to streamline state government in a cost-effective manner.

(22) THE ECONOMY.--

(a) Goal.--Florida shall promote an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income for its residents.

(b) Policies.--

4. Strengthen Florida's position in the world economy through attracting foreign investment and promoting international banking and trade.

IV. COMMENTS:

The bill represents a combination of issues that are part of the State Treasurer's legislative package.

Staff of the State Board of Administration and the Office of the Comptroller have indicated that they do not object to the provisions of the bill which delete certain responsibilities of the SBA and the ambiguous language pertaining to the "Comptroller" from state law.

The bill is not specifically addressed by the mission statement of the House Governmental Operations Committee, although some of the provisions that propose to increase the Treasurer's investment flexibility may be related to the statement that the committee should "initiate ways to achieve better productivity and efficiency by state agencies." The bill's provision pertaining to bankers' acceptances is related to the recommendation of the Policy Statement of the 1989-1990 Legislative Issues Conference that programs should be considered to continue a business climate which fosters the growth of international banking and finance in Florida.

\* STORAGE NAME: h0577-f.go  
DATE: July 6, 1989  
PAGE: 8

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

David Hawley  
David Hawley

Staff Director:

Barry Kling  
Barry Kling

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director: