

1989

Session Law 89-326

Florida Senate & House of Representatives

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H 1005 GENERAL BILL/CS by Governmental Operations; Mackey and others (Similar S 869, Compare H 1184, CS/H 1243, S 1138, CS/S 1396, 1ST ENG/S 1448)
Public Funds/Investment: authorizes governing bodies of special districts & school boards to invest surplus funds in specified securities; provides for certain investments of proceeds from sale of bonds for school district. Amends 218.345, 236.24, .49. Effective Date: 07/05/89.

03/17/89 HOUSE Prefiled
03/24/89 HOUSE Referred to Governmental Operations; Finance & Taxation; Appropriations
04/04/89 HOUSE Introduced, referred to Governmental Operations; Finance & Taxation; Appropriations -HJ 96; On Committee agenda -Governmental Operations, 04/06/89, 3:30 pm, 314-HOB -For ratification of referral to subcommittee
04/13/89 HOUSE On subcommittee agenda-Governmental Operations, 04/17/89, 10:40 am, 314-HOB
04/17/89 HOUSE Subcommittee Recommendation: Favorable with 2 amendments; On Committee agenda, pending subcommittee action-Governmental Operations, 04/18/89, 8:30 am, 314-HOB
04/18/89 HOUSE Preliminary Committee Action by Governmental Operations: Favorable as a CS
04/25/89 HOUSE Comm. Report: CS by Governmental Operations -HJ 275; CS read first time -HJ 274; Now in Finance & Taxation -HJ 275
04/27/89 HOUSE Withdrawn from Finance & Taxation -HJ 285; Now in Appropriations
05/19/89 HOUSE Withdrawn from Appropriations -HJ 548; Placed on Calendar
05/26/89 HOUSE Placed on Consent Calendar; Read second time; Read third time; CS passed; YEAS 110 NAYS 0 -HJ 678
05/26/89 SENATE In Messages
05/30/89 SENATE Received, referred to Governmental Operations; Finance, Taxation and Claims; Appropriations -SJ 563
06/02/89 SENATE Withdrawn from Governmental Operations; Finance, Taxation and Claims; Appropriations; Substituted for SB 869; CS passed; YEAS 38 NAYS 0 -SJ 919
06/02/89 Ordered enrolled
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-326; See also: SB 1448 (Ch. 89-299)

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.

STORAGE NAME: h1005-f.go
DATE: July 6, 1989

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

BILL #: CS/HB 1005

RELATING TO: Investment of Public Funds/Special Districts and School Boards

SPONSOR(S): Committee on Governmental Operations and Representative Mackey and others

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

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-326, Laws of Florida

COMPANION BILL(S): SB 869 (similar)

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

I. SUMMARY:

A. SHORT SUMMARY:

Current law allows counties, municipalities, and county officers to invest surplus public funds in securities (mutual funds) consisting of U.S. government obligations or repurchase agreements collateralized by such obligations. Special districts and school boards, which have investment authority similar to these other entities, are not authorized to invest in such securities.

The bill would authorize special districts and school boards to invest surplus public funds in securities consisting of U.S. government obligations or repurchase agreements collateralized by such obligations. The bill also would authorize school boards to invest the proceeds of bond sales that are not immediately needed in certain investments authorized for use by school boards for the investment of surplus public funds.

B. PRESENT SITUATION:

In 1985, the Legislature authorized banks and trust companies to invest in securities (mutual funds) of registered investment companies or trusts if the securities consist of U.S. government obligations and repurchase agreements backed by such obligations. [s. 658.67(1)(k), Florida Statutes]. United States government obligations refer primarily to U.S. Treasury bills, notes, and

bonds. In 1988, the Legislature enacted Committee Substitute for Senate Bill 419 (chapter 88-171, Laws of Florida) to allow counties, municipalities, and county officers to invest surplus public funds in the same type of securities. Special districts and school boards, which have the authority to invest surplus public funds in other instruments similar to instruments in which counties, municipalities, and county officers may invest, are not authorized to invest in securities consisting of U.S. obligations or repurchase agreements collateralized by such obligations.

Currently, special districts and school boards are authorized by law to invest surplus funds in the Local Government Surplus Funds Trust Fund, direct U.S. government obligations, time deposits or savings accounts, obligations issued by federal farm credit banks, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank, or obligations guaranteed by the Government National Mortgage Association. School boards are also authorized to invest in obligations issued by the Federal National Mortgage Association. This investment authority is supplemental to other laws pertaining to investments by special districts or school boards. "Surplus funds" of special districts or school boards are defined as funds in any general or special account or fund of the special district or school board which are not contemplated to be needed for the purposes for which the funds are intended to be used within a reasonable time from the date of the investment. [ss. 218.345(4) and 236.24(2)(d), Florida Statutes].

Investment in U.S. government obligations separately may limit the flexibility of an investor because of different purchasing requirements, different levels of investment, and different maturities. Investment in securities consisting of these types of obligations may allow for more investment flexibility.

Section 236.49, Florida Statutes, provides that school boards may invest the proceeds of the sale of bonds issued by the board, if the proceeds will not be immediately needed, in time deposits of the school depository or in securities issued or guaranteed by the U.S. government. School boards may also invest such proceeds in instruments of indebtedness of the U.S. government or bonds or obligations of the U.S. government under certain maturity restrictions; bonds issued by the district under certain restrictions; obligations of the school board approved under s. 237.161, Florida Statutes; and bonds issued by the State Board of Education. School boards are not specifically authorized to invest bond proceeds in some of the types of investments authorized for the investment of surplus public funds by school boards under s. 236.24, Florida Statutes.

C. EFFECT OF PROPOSED CHANGES:

The bill would amend s. 218.345(1), Florida Statutes, to authorize special districts to invest and reinvest surplus public funds in securities which consist of U.S. government obligations and repurchase agreements fully collateralized by such obligations. The bill also would amend s. 236.24(2)(a), Florida Statutes, to authorize district school boards to invest surplus

public funds in the same type of securities.

The bill would authorize school boards to invest proceeds of bond sales not immediately needed in the types of investments authorized in s. 236.24, Florida Statutes, for the investment of surplus public funds by school boards.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends s. 218.345(1), Florida Statutes; authorizes the governing body of a special district to invest surplus funds in specified securities.

Section 2 -- Amends s. 236.24(2)(a), Florida Statutes; authorizes district school boards to invest surplus public funds in specified securities.

Section 3 -- Amends s. 236.49(2), Florida Statutes; provides for certain investments of proceeds from the sale of bonds for a school district.

Section 4 -- 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:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

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:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

See Fiscal Comments.

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

None.

D. FISCAL COMMENTS:

The exact fiscal impact on special districts or school boards from investment of surplus public funds in the type of securities authorized by the bill is unknown. Such investments would be at the discretion of the special district or school board.

Investment companies and trusts selling the type of securities authorized for investment of surplus public funds by the bill may benefit from increased investment activity if special districts and school boards decide to invest in such securities.

III. LONG RANGE CONSEQUENCES:

None.

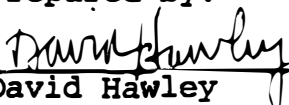
IV. COMMENTS:

The bill is not addressed by the mission statements of the House Governmental Operations Committee. The bill is related to the recommendation of the Policy Statement of the 1989-1990 Legislative Issues Conference that "[l]ocal governments should take advantage of the available financing sources and be given new options to generate the funding needed to meet the demands of current and past growth."

V. SIGNATURES:

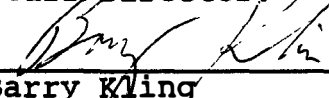
SUBSTANTIVE COMMITTEE:

Prepared by:



David Hawley

Staff Director:



Barry Kling

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

STORAGE NAME: h1005-f.go
DATE: July 6, 1989
PAGE: 5

APPROPRIATIONS:
Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Tinney</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Fav/3 amends.</u>
2. _____	_____	2. <u>FTC</u>	_____
3. _____	_____	3. <u>AP</u>	_____
4. _____	_____	4. _____	_____

SUBJECT:

Special Districts and District School Boards; Investments

BILL NO. AND SPONSOR:

SB 869 by Senator Weinstein

I. SUMMARY:

A. Present Situation:

A special district is defined in s. 165.031, F.S., to mean a local unit of special government, other than a district school board, created pursuant to general or special law for the purpose of performing prescribed, specialized functions, including municipal service functions within limited boundaries. A charter for creation of a dependent special district may only be adopted by special act of the Legislature, or by ordinance of a county or municipal government having jurisdiction over the affected area.

A dependent special district, under the definition in s. 218.31, F.S., means a special district whose governing head is the local governing authority, or one whose budget is established by the local government authority. An independent special district is defined as one whose governing head is an independent body, either appointed or elected, and whose budget is established independently of the local governing authority. An independent special district may accept appropriations from the local governing authority, however.

Article IX, s. 4, Fla. Const., provides that each county (or two or more contiguous counties, as approved by the electors in each) constitutes a school district, and requires that each school district have a school board composed of five or more members chosen by the voters. Section 236.24, F.S., 1988 Supp., provides that the district school fund will consist of funds derived from the district school tax levy, state appropriations, county appropriations, local, state, and federal school food service funds, and from various other sources.

Section 218.345, F.S., authorizes the governing body of each special district to invest surplus public funds as prescribed by law. School boards are granted similar authority to invest surplus funds in s. 236.24(2), F.S., 1988 Supp. Surplus public funds are moneys held or controlled by the school board, or by the governing body or officer of the special district, which are not needed for the purposes intended within a reasonable time from the date of the investment. The investments generally authorized for surplus funds are purchases of securities which are either guaranteed by the federal government or by the state's public deposit program. Neither special districts nor school boards are specifically authorized by law to invest in mutual funds.

Special districts and school boards are also authorized to invest in the Local Government Surplus Funds Trust Fund established in s. 218.405, F.S. The fund is administered by the State Board of Administration (SBA) which, as specified in ss. 218.405 and 218.409, F.S., is authorized to invest the

trust funds in the same manner and subject to the same restrictions as set forth in s. 215.47, F.S., 1988 Supp. According to the SBA, there is currently in excess of \$6.2 billion invested under the Local Government Surplus Funds Trust Fund.

The State Board of Administration is established by Art. XII, s. 9, Fla. Const., and is composed of the Governor, who serves as the Chairman, the Comptroller, and the Treasurer. The SBA invests public funds valued at approximately \$21.7 billion, including the funds of the Florida Retirement System and the Local Government Surplus Fund Trust Fund. Section 215.47, F.S., 1988 Supp., specifies the authority of the SBA to invest in securities as prescribed in the law. The law was amended by ch. 88-171, L.O.F., to include mutual funds as authorized investments for the SBA.

The Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., is the federal law which authorizes the creation of mutual funds and provides for their regulation by the United States Securities and Exchange Commission. An open-end company handles mutual funds that are continually offered for sale. A closed-end distributor offers mutual funds which are not continuously offered or readily available for sale, and which are sold at prescribed times.

Section 658.67, F.S., within the Florida Banking Code, limits the investments of state-chartered banks to certain securities, as prescribed by law, to protect the safety of the public's funds. Section 660.415, F.S., specifies authorized investments by trust companies and trustees. In 1985, both of these sections were amended to provide that banks and trust companies may invest in:

securities of, or other interests in, any open-end or closed-end management type-investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided that the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided further that any such investment company or investment trust shall take delivery of such collateral either directly or through an authorized custodian.

B. Effect of Proposed Changes:

The investment authority of special districts and school boards would be expanded to include the investment of specified surplus public funds in certain mutual funds.

The mutual funds which would be authorized statutorily as investments permitted for special districts and school boards would be defined as those which are securities offered by both open-end and closed-end companies which are obligations of the United States government. The repurchase agreements on such mutual funds would be required to be fully collateralized by United States obligations and held in the possession of the company offering the mutual funds.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

While the mutual funds authorized as investments for special districts and school boards would be low-risk funds, they would not necessarily be guaranteed by the United States government.

If special districts and school boards were to invest in such mutual funds, they would assume a slightly higher risk. The resulting gains or losses from such investments cannot be estimated.

III. COMMENTS:

Chapter 88-171, L.O.F., extended to counties and municipalities the authority for investment of surplus funds as is contained in this bill.

IV. AMENDMENTS:

#1 by Governmental Operations:

Technical change to clarify that investment in mutual funds is only one of several investment options available for school board surplus funds.

#2 by Governmental Operations:

Allows district school boards to invest in several sources that are also available for other surplus school board monies.

#3 by Governmental Operations:

Title amendment conforming to Amendment #2.

SENATE COMMITTEE AMENDMENT

SB 869

No. 1
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page3....., line19....., strike

the period (.)

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	Yes	No
				—

and insert:

; or

CODING: Words stricken are deletions; words underlined are additions.

* Amendment No. 1, taken up by committee: 04/26/89 Adopted x *

* Offered by Senator Gardner Failed _ *

(Amendment No. Adopted ___ Failed ___ Date ___/___/___)

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page3....., between lines 29 and 30,

Insert a new Section 3

If amendment is text from another bill insert:

Bill No. SB 1138 Draft No. _____ With Changes? Yes No

Section 3. Subsection (2) of section 236.49, Florida Statutes, 1988 Supplement, is amended to read:

236.49 Proceeds; how expended.--The proceeds derived from the sale of said bonds shall be held by the school board and shall be expended by the board for the purpose for which said bonds were authorized for said school district, and shall be held and expended in the manner following:

(1) The school board shall deposit, or cause to be deposited, the proceeds arising from the sale of each issue of bonds in a separate bond construction fund account in the school depository.

(2) All or any part of the fund derived from the proceeds of any such bond issue that in the judgment of the school board is not immediately needed may be placed on time deposit in the school depository or invested in securities issued by or guaranteed by the United States Government, in investments specified in s. 236.24 for the district school fund, or in the following securities of the district maturing not later than the time when the funds are reasonably expected to be needed:

SENATE COMMITTEE AMENDMENT

SB 869

HB _____

1 (a) In instruments of indebtedness of the United
2 States Government or in any bonds or obligations which shall
3 then be fully and unconditionally guaranteed as to principal
4 by the United States Government, at the then current market
5 price of such bonds or other obligations; provided, that any
6 such bond or other obligation purchased under the authority
7 hereof shall be surrenderable at par and accrued interest not
8 later than 3 years after the date of the purchase of the same.

9 (b) In any bonds issued by the district; provided,
10 such bonds are not in default and can be obtained at a price
11 which will result in a net saving to the taxpayers of the
12 district.

13 (c) In any obligations of the school board approved in
14 accordance with the provisions of s. 237.161.

15 (d) In any bonds issued by the State Board of
16 Education.

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(Renumber subsequent section.)

SENATE COMMITTEE AMENDMENT

SB 869

No. 3
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

In title, on page, line, strike

the title

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes
			-	

and insert:

An act relating to investment of public funds; amending s. 218.345, F.S.; authorizing the governing body of a special district to invest surplus funds in specified securities; amending s. 236.24, F.S., authorizing district school boards to invest surplus funds in specified securities; amending s. 236.49, F.S., 1988 Supp.; providing for certain investments of proceeds from the sale of bonds for a school district; providing an effective date.

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. 3, taken up by committee: 04/26/89 Adopted x *
 * Offered by Senator Gardner Failed _ *

 (Amendment No. _____ Adopted ___ Failed ___ Date __/__/__)