



REPLY TO: TALLAHASSEE

May 30, 2013

**By Electronic Delivery**

Maureen Hazen, General Counsel  
State Board of Administration  
1801 Hermitage Boulevard  
Tallahassee, FL 32308

Re: Local Government Surplus Funds Trust Fund—Statutory Compliance Review

Dear Ms. Hazen:

Attached pursuant to your request is our review of the Local Government Surplus Funds Trust Fund for compliance with Part IV of Chapter 218, Florida Statutes.

Please let me know if you have any questions with regard to this document.

Yours truly,



Anne Longman

AL/es

Enclosure

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*See Things Differently*

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## SUMMARY OF STATUTORY COMPLIANCE REVIEW

This review finds that the Local Government Surplus Funds Trust Fund, Florida PRIME™, (Fund) is in compliance with Sections 218.40 – 218.415, Florida Statutes.

Scope – The time period reviewed is May 30, 2012 through May 31, 2013.

Methodology – The review included analysis of the applicable statute, interviews with State Board of Administration personnel, review of materials posted to the Florida PRIME™ website, materials provided by personnel, a brief sampling of participant files, and review of the Participant Status Report, which is a log produced by Florida PRIME™ staff showing the current status of all accounts.

### Additional Findings –

1. The Investment Policy Statement (IPS) must be updated annually. §218.409(2)(a), Fla. Stat. While there is no requirement that the Fund adopt rules, the IPS has been included in the Fund's rules. §19-7.0002, F.A.C. Staff is reviewing this practice and may repeal this rule so as to eliminate yearly revisions.

2. Because the Fund existed long before many requirements for enrollment were added in 2008, a number of participants do not have a Disclosure Statement (a document specifically acknowledging receipt and review of enrollment materials) on file. Staff continues to seek these documents by direct request and by requiring them when participants make account changes.

3. This year's Auditor General report noted an instance of the Fund Manager purchasing securities not permitted by the Fund IPS. This review does not address the substance of this finding but confirms that the statutorily mandated procedures were followed once this exception was discovered. Additional compliance procedures have been initiated with the Fund Manager to assure such exceptions are found in the future.

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Reply to: Tallahassee

June 1, 2013

## LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND STATUTORY COMPLIANCE REVIEW

The Local Government Surplus Funds Trust Fund (Trust Fund or Fund) administered by the State Board of Administration (Board) was created in 1977, is governed by Part IV of Chapter 218, Florida Statutes, titled Investment of Local Government Surplus Funds, and is now known as Florida PRIME™.

### THE STATUTE

Pursuant to section 218.405(3), the trustees (meaning the trustees of the State Board of Administration, section 218.403(10), constituted per section 215.44(1)) must make a two part annual certification:

(3) The trustees shall annually certify to the Joint Legislative Auditing Committee that the trust fund is in compliance with the requirements of this part and that the trustees have conducted a review of the trust fund and determined that the management of the trust fund is in accord with best investment practices. (Emphasis added.)

This is the fifth annual review of the Fund under section 218.405(3). There have been no substantive changes to the statute since last year's review.

### SCOPE OF REVIEW

This statutory review addresses the first part of the annual certification and examines whether the Trust Fund, defined at section 218.403(9) as "the pooled investment fund created by s. 218.405 and known as the Local Government Surplus Fund Trust Fund," is "in compliance with the requirements of this part." "This part" refers to Part IV of Chapter 218, Florida Statutes, which includes sections 218.40 – 218.422, Florida Statutes.

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The scope of this review is sections 218.40 – 218.415, Florida Statutes for the time period May 30, 2012 through May 31, 2013. The remainder of Part IV, Chapter 218 covers the Fund B Surplus Funds Trust Fund, which is not within the scope of this review.

## PURPOSE

As set out at section 218.401, Florida Statutes, the purpose of Part IV of Chapter 218 is:

[T]o promote, through state assistance, the maximization of net interest earnings on invested surplus funds of local units of government, based on the principals of investor protection, mandated transparency, and proper governance, with the goal of reducing the need for imposing additional taxes.

By its terms, the Fund is limited to units of local government, as defined at section 218.403(11):

‘Unit of local government’ means any governmental entity within the state not part of state government and shall include, but not be limited to, the following and the officers thereof: any county, municipality, school district, special district, clerk of the circuit court, sheriff, property appraiser, tax collector, supervisor of elections, authority, board, public corporations, or any other political subdivision of the state.

This is a very broad definition, as it covers not just “any governmental entity...not a part of state government,” but includes also authorities, boards and public corporations, and is specifically not limited to the enumerated bodies. In addition, the definition of surplus funds, found at section 218.403(8), includes:

[A]ny funds in any general or special account or fund of a unit of local government, or funds held by an independent trustee on behalf of a unit of local government, which in reasonable contemplation will not be immediately needed for the purposes intended.

Fund participants are charged by statute with determining whether it is in their interest to participate in the Fund. §218.407(2). The enrollment materials require the participant to certify that it has determined it is authorized to invest in the Fund. They also state that the SBA is not responsible for independently verifying that the participant is so authorized.

## CREATION, OBJECTIVES

The Trust Fund is created at section 218.405, Florida Statutes,

(1) There is hereby created a Local Government Surplus Funds Trust Fund to be administered by the board and to be composed of local government surplus funds deposited therein by units of local government under the procedures established in this part. The board may contract with a professional money management firm to manage the trust fund.

The Board has contracted with a professional money management firm, Federated Investment Counseling (Federated), to manage the Trust Fund.

- (2) The primary objectives, in priority order, of investment activities shall be safety, liquidity, and competitive returns with minimization of risks.
- (3) (Certification requirement, cited above)
- (4) The board may adopt rules to administer the provisions of this section.

## RULES

Both sections 218.405(4) and 218.412 make rulemaking to administer the Trust Fund permissive rather than mandatory. The Board has adopted rules for the Fund at Chapter 19-7, Florida Administrative Code. The majority of these rules were enacted in 1982, with substantial revisions in 2002 and 2010. Effective April 11, 2012, pursuant to Executive Order 11-01, the former purpose statement at 19-7.001 was eliminated as duplicative, unnecessary or unduly burdensome. Rule 19-7.002 was amended this same date to adopt the then current Investment Policy Statements (IPS) for the Fund and for Fund B and to give website references for them. This was the last amendment to Rule 19-7, and so the current Investment Policy Statement adopted June 26, 2012 is not referenced or incorporated by reference. Staff is evaluating the need for this rule and may repeal it to eliminate annual amendments.

## HOW THE TRUST FUND INTERACTS WITH LOCAL GOVERNMENT AUTHORITIES

Section 218.407 sets out the requirements that must be met before a unit of local government may deposit surplus funds in the Trust Fund:

- (1) Prior to any determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, the board or a professional money management firm must provide to the governing body enrollment materials, including a trust fund profile containing impartial educational information describing the administration and investment policy of the trust fund, including, but not limited to:

- (a) All rights and conditions of participation, including potential restrictions on withdrawals.
- (b) The historical performance, investment holdings, credit quality, and average maturity of the trust fund investments.
- (c) The applicable administrative rules.
- (d) The rate determination processes for any deposit or withdrawal.
- (e) Any fees, charges, penalties, and deductions that apply to the account.
- (f) The most recently published financial statements or independent audits, if available, prepared under generally accepted accounting principles.
- (g) A disclosure statement for signature by the appropriate local government official.

The Board, with Federated, has created enrollment materials which include a Trust Fund profile and education information which appear to be impartial and to accurately describe the administration and investment policies of the Trust Fund and which meet the specific requirements of the above section.

All materials are provided to participants and potential participants at the Board's web site: [www.sbafla.com](http://www.sbafla.com) at the Florida PRIME™ link, or directly at [www.sbafla.com/prime](http://www.sbafla.com/prime). The New Participant Enrollment Guide, the current Investment Policy Statement, the Earnings Allocation description and the applicable rules are included under the "Enrollment Materials" tab, as are the forms of two documents that must be executed by a new participant: the Disclosure Statement and the Authorizing Resolution. These materials track the statutory information required by section 218.407(1) cited above.

- (2) Upon review of the enrollment materials and upon determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, a resolution by the governing body and the signed acceptance of the disclosure statement by the local government official, who may be the chief financial or administrative officer of the local government, shall be filed with the board and, if appropriate, a copy shall be provided to a professional money management firm authorizing investment of its surplus funds in the trust fund established by this part. The resolution shall name:
- (a) The local government official, who may be the chief financial or administrative officer of the local government, or
  - (b) An independent trustee holding funds on behalf of the unit of local government, responsible for deposit and withdrawal of such funds.

The Fund was created in 1977, and so has many long-standing participants. When the governing statutes were substantially amended effective in 2008, new requirements and safeguards were added, including specific items set out in 218.407(1) and (2) above, that had

to be given to or obtained from participants. Most of these requirements are intended to assure that the participant is fully informed about the nature, purpose, stability and processes of the Fund. Some long-standing participants do not have a Disclosure Statement on file with the Fund, as this was not required when they enrolled. On June 20, 2012, staff sent an email notice to all Fund participants requesting filing of a Disclosure Statement. This notice included the form Disclosure Statement and a set of frequently asked questions, and was also posted to the Fund website the same day. Over 300 Statements were received in response to this request. In a further effort to obtain Disclosure Statements from existing participants, staff also now requires a participant without a Disclosure Statement to file one with any amended Participant Account Maintenance (PAM) form. A PAM form must be submitted when any change is made to the participant's banking information or authorized personnel.

Staff has created a Participant Status Report, (identified in previous years as Exhibit C to this report) which lists all accounts now in the Trust Fund, including the participant name, an identification number, the date the account opened, termination date (if applicable), date the Disclosure Statement was filed, participant type, and for each of the statutory review years, whether the account has a resolution or letter of authorization to open the account and whether a Disclosure Statement is on file.

There are still a number of participants who do not have Disclosure Statements on file, despite efforts of staff. This issue has been addressed in previous year's reviews (see 2010 review), and that analysis still pertains: all participants have putative and actual knowledge of the workings of the Fund, through the Monthly Summary Reports and materials posted to the website. I recommend however, that the Fund still continue all efforts to obtain these Disclosure Statements.

Due to its length, the Participant Status Report is not attached to this report. It can be requested by accessing the Florida PRIME™ website, Client Support Team, Submit Question link, LocalGovPool@sbafla.com.

(3) The board or a professional money management firm shall, upon the filing of the resolution, invest the moneys in the trust fund in the same manner and subject to the same restrictions as are set forth in s.215.47. All units of local government that qualify to be participants in the trust fund shall have surplus funds deposited into a pooled investment account.

Section 215.47, cited above, details the types of investments permitted for all Board funds, including Florida PRIME™. Pursuant to section 218.409(2)(a), the Fund also must be invested in accordance with the current written investment policy. Part two of the certification required by section 218.405(3), being conducted by Aon Hewitt Ennis, will determine if the Fund's management is in accord with best investment practices (and in accord with the current Investment Policy Statement (IPS)).

## ADMINISTRATION OF THE TRUST FUND, ADVISORY COUNCIL

### **218.409 Administration of the trust fund; creation of advisory council.—**

(1) Upon receipt of the items specified in s. 218.407 from the local governing body, the board or a professional money management firm shall accept all wire transfers of funds into the trust fund. The board or a professional money management firm shall also wire-transfer invested local government funds to the local government upon request of the local government official named in the resolution.

A clearing account maintained by Bank of America, which is a qualified public depository, accepts money transmitted to the Board and transfers to BNY Mellon, as the custodian, as discussed further below.

(2)(a) The trustees shall ensure that the board or a professional money management firm administers the trust fund on behalf of the participants. The board or a professional money management firm shall have the power to invest such funds in accordance with a written investment policy. The investment policy shall be updated annually to conform to best investment practices. The standard of prudence to be used by investment officials shall be the fiduciary standards as set forth in s. 215.47(9), which shall be applied in the context of managing an overall portfolio. Portfolio managers acting in accordance with written procedures and an investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this part.

The Board administers the Trust Fund on behalf of the participants and handles accounting, statements, monthly reporting and compiling and maintaining enrollment materials. Federated, a professional money management firm contracted by the Board, acts as the Investment Manager and invests the Trust Fund funds in accordance with the written Investment Policy Statement, interacts with participants to answer inquiries and facilitates Standard and Poor's ratings. BNY Mellon acts as custodian of all assets of the Fund and processes all trades made by Federated. BNY Mellon also does valuation and pricing for the Fund. The Investment Policy Statement has been updated and approved by the Trustees, and was effective July 1, 2012. It is posted at the Fund website tab "Risk Management and Oversight."



(b) Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business on behalf of the trust fund. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the board.

All Board employees are required to complete annual training sessions to assure that Board officers and employees involved in the investment process are not engaged in personal business activity that could conflict with the Trust Fund program or impair their ability to make impartial decisions. The SBA Inspector General confirms that all employees completed this annual training by January 31, 2013. Employees and investment officials are required to disclose material interests in financial institutions with which they also conduct Trust Fund business, and any personal financial or investment positions that could be related to performance of the Trust Fund portfolio. The SBA Code of Ethics is posted to the web site under Risk Management and Oversight, SBA Policies, with the complete Ethics Policy 10-040 posted to the SBA intranet. The Chief Risk and Compliance Officer assures that any trading or investment activity by individual employees is in compliance with the Ethics Policy.

The Board has developed a process and document to be used by professional money manager Federated to certify that it is in compliance with statutory ethics requirements. A Compliance Certification for 2012 was executed on February 27, 2013 by Federated's Chief Investment Officer and Chief Compliance Officer.

(c) The board or a professional money management firm and all employees have an affirmative duty to immediately disclose any material impact to the trust fund to the participants. To ensure such disclosure, a system of internal controls shall be established by the board, which shall be documented in writing as part of the investment policy. The controls shall be designed to prevent the loss of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the board or a professional money management firm. The controls shall also include formal escalation reporting guidelines for all employees. The guidelines shall establish procedures to address material impacts on the trust fund that require reporting and action.

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The Board intranet home page includes an employee toll-free fraud hotline number which allows all employees to anonymously report any concerns with regard to any aspect of Board functions, including the Trust Fund. This number also is provided in all contracts with external service providers, in order to reach any potential problems in these relationships, and is in the Internal Controls and Fraud Policy 10-042, posted to the SBA website. The hotline, operated by an independent company, is available 24 hours a day, 7 days a week. The Board Inspector General receives any reports from the hotline and copies these to the Chief Risk and Compliance Officer. There have been no fraud reports to the hotline number in the review period.

The current Investment Policy Statement at Section IX, Controls and Escalation Procedures, fulfills the above section by imposing extensive reporting, monitoring and escalation requirements on the executive director, all employees, the Fund custodian, the Investment Manager, an independent investment consultant and any third party used to materially implement the Fund.

Also in accordance with the IPS, the executive director of the Board has organized an Investment Oversight Group (IOG) to regularly review and formally escalate exceptions or events that might have a material impact on the Trust Fund. The minutes of its meetings, which have occurred at least monthly as required by the IPS, are posted to the Fund website.

The IPS requires the Investment Manager to provide the IOG with documented compliance procedures, an assessment of the Fund's ability to withstand events likely to occur in the coming year (stress testing) and their list of designated nationally recognized statistical rating organizations. Board personnel have confirmed that these materials have been provided to the IOG.

Federated maintains several subject-specific compliance procedures for the Fund (e.g., Maturity, Minimal Credit Risk, Diversification.) These procedures are reviewed and updated annually. The Eligible Security compliance procedure is currently being reviewed and revised, in light of the Auditor General exception noted below, although the contents of the procedure must ultimately be approved and implemented by Federated rather than Fund personnel.

The IPS also requires the Trustees to review and approve management summaries of material impacts on the Fund and any actions or escalations, along with any required actions thereon. The Monthly Summary Reports, which are provided at the website, constitute these management summaries. (See further discussion on the contents of this Report under section 218.409(6).) As reflected in the agendas of the meetings of the Board Trustees for the applicable period of time, which are posted to the SBA website, the requisite approvals were requested.

The above safeguards assure that the administration of the Trust Fund is in accordance with stringent standards of disclosure designed to prevent the loss of funds from fraud, error, misrepresentation, market changes or imprudent actions by the Board or a money manager, and in some aspects exceed what is required by statute. This year's Auditor General report noted an instance of the Fund Investment Manager (Federated) purchasing securities not permitted by the Florida PRIME™ IPS. My review does not address the substance of this finding, but confirms that the statutorily mandated safeguards were followed once this exception was discovered. Additional requirements were initiated by Fund staff and made part of the Compliance Program Procedures beginning in September 2012, to assure any such exceptions are found in the future. This is in addition to the amended compliance procedures being implemented by Federated.

(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.

As set out above, the Investment Policy Statement was amended, endorsed by the Investment Advisory Council and the Participant Local Government Advisory Council and approved by the Trustees to be effective July 1, 2012.

(3) The board or a professional money management firm may purchase such surety or other bonds as may be necessary for its officials in order to protect the trust fund. A reserve fund may be established to fulfill this purpose. However, any reserve must be a portion of the management fee and must be fully disclosed, including its purpose, in the enrollment materials at the time a unit of local government considers participation. Further, any change in the amount to be charged for a reserve must have a reasonable notice period to allow any participant to withdraw from the trust fund prior to the new reserve charge being imposed.

No surety or other bonds have been purchased to protect the Trust Fund. A reserve fund already existed before the period of this review and no additions have been made to it during the period of this review.

(4) The board or a professional money management firm shall purchase investments for a pooled investment account in which all participants share pro rata in the capital gain, income, or losses, subject to any penalties for early withdrawal. Any provisions for penalties, including their purpose, must be disclosed in the enrollment materials. Any change in the amount to be charged for a penalty must have a reasonable notice period to allow any participant to withdraw from the trust fund prior to the new penalty charge being imposed. A

system shall be developed by the board, and disclosed in the enrollment materials, subject to annual approval by the trustees, to keep account balances current and to apportion pooled investment earnings to individual accounts.

All participants in the Trust Fund share pro rata in all capital gain, income or losses, as set out in the Description of Investment Pool Apportionment Subsystem, posted to the website. This system is designed to keep account balances current and to apportion pooled investment earnings to individual accounts.

(5) The board shall keep a separate account, designated by name and number of each participating local government. A maximum number of accounts allowed for each participant may be established by the board. Individual transactions and totals of all investments, or the share belonging to each participant, shall be recorded in the accounts.

Separate accounts are kept for each participant, with a maximum number of ten accounts for each participant.

(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, 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, the Investment Advisory Council, and the Participant Local Government Advisory Council.

A document titled Monthly Summary Report is produced monthly to address the above requirements and made available at the Florida PRIME™ website.

The quarterly reports of the Trustees to the Joint Legislative Auditing Committee showing that the Trustees have reviewed and approved the monthly reports and taken responsive action, per the above, are memorialized in the previously mentioned agendas of the meetings of the Trustees of the State Board of Administration, posted to the SBA website.

(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, the Investment Advisory Council, and the Participant Local Government Advisory Council.

The market value of the Fund portfolio is calculated daily by BNY Mellon and had been posted on the website within two days until February 1, 2013, at which time reporting was improved to next day disclosure. The Information Statement and Operating Procedures, also posted to the website, sets out the operating procedures for the Fund, including hours of operation, holidays and timing of transactions. These procedures are transparent and appear to ensure, to the extent possible, that disadvantages do not occur to parties making deposits or withdrawals on particular days, as each participant has equal access to the transaction system. A statement of the market value and amortized cost of the portfolio is available at all times to participants on the website, and participants receive monthly individual account statements.

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.

Compliance with the above part of section 218.409(6)(b) will be determined in part two of the annual certification, conducted by Aon Hewitt Ennis.

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.

Additional materials are available on the Trust Fund website, are provided through the monthly reports, and are available at periodic Federated and Board conference call meetings

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open to all participants. At these meetings, participants are able to talk with representatives of Federated, the Board Executive Director and Board staff representing various areas of expertise. In addition, Federated attends a number of participant association meetings to provide information about the Fund.

(7) Costs incurred in carrying out the provisions of this part shall be deducted from the interest earnings accruing to the trust fund. Such deductions shall be prorated among the participant local governments in the percentage that each participant's deposits bear to the total trust fund. The remaining interest earned shall be distributed monthly to participants according to the amount invested. Except for costs, the board or a professional money management firm may not transfer the interest or use the interest for any other purpose, including, but not limited to, making up investment losses.

Cost amounts are shown in the monthly reports. The above statutory requirement, which was present in the law before the 2008 revisions, is theoretically problematic: If fund investment values were to decline sufficiently in a given month, there would be no interest from which to pay costs and fees, and the literal requirements of this provision could not be met within a given month. Staff have analyzed this issue and provided the following clarification:

Florida PRIME™'s current total expense ratio is approximately 3.0 basis points (or 0.03%), with the SBA's portion of the total fees equal to 1.0 basis point (or 0.01%). Historical asset levels with an average annual balance of \$6.5 billion over the last 5 years have been sufficient to generate adequate fees to cover all administrative, operational, compliance and investment management charges. SBA staff is confident the pool will continue to function very well going forward and meet all needs to recover the costs of operation.

(8)(a) The principal, and any part thereof, of each and every account constituting the trust fund shall be 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 shall be immediately disclosed to all participants, the trustees, the Joint Legislative Auditing Committee, 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 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 prior to the expiration of the time limit set, but in no case may the time limit set by the trustees exceed 15 days.

In the time period covered by this review, the principal of all accounts in the Trust Fund has been paid at any time requested by a participant and there have been no events causing the Executive Director to limit contributions or withdrawals.

(b) An order to withdraw funds may not be issued upon any account for a larger amount than the share of the particular account to which it applies; and if such order is issued, the responsible official shall be personally liable under his or her bond for the entire overdraft resulting from the payment if made.

In the time period covered by this review, there have been no orders to withdraw funds for a larger amount than the share of a particular account.

(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.

The Auditor General annual financial audit of the Trust Fund, Report No.2013-092, for the fiscal year ended June 30, 2012 was completed in February, 2013, provided to all Fund participants that same month, and is posted at the Florida PRIME™ website under the “Audits” tab (the audit actually covers fiscal years ended June 30, 2012 and 2011.) The Trustees reported to the Joint Legislative Auditing Committee on March 7, 2013 and certified that the annual audit did not disclose any material deficiencies in internal control over financial reporting that were considered to be material weaknesses. The report did recommend a corrective action plan to ensure that only eligible securities per the Investment Policy Statement are purchased. This plan has been implemented.

(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.

Participant Local Government Advisory Council (PLGAC) membership is complete, with all appointments made. Quarterly meeting notices, agendas and minutes of Council activities are posted on the Fund website. The PLGAC reviews investment reports, including the Monthly Summary Report, and any annual reports, oversees Fund operations and provides strategic guidance on policy issues.

(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.

The first Biennial Report of the PLGAC was issued in February 2011. The second Biennial Report was issued in March 2013. It includes a full discussion and analysis of the decision to recommend an increase in the individual fee component effective July 1, 2012, and also explains the decision to recommend no change to the scope or frequency of the fund's monthly compliance testing. I express no opinion as to whether the section 218.409(6) requirement of a monthly report, which must include among other things, "analysis of the status of the current investment portfolio," and "reports of any material impacts," is co-extensive with compliance testing, but note that, in any event an extensive report is required by statute to be done at least monthly.

#### AUTHORIZATION TO PROVIDE ASSISTANCE

##### **218.411 Authorization for state technical and advisory assistance.**

(1) The board is authorized, upon request, to assist local governments in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such local governments through publication and other appropriate means.

(b) Acquainting such local governments with the state's practice and experience in investing short-term funds.

(c) Providing, in cooperation with the Department of Community Affairs, technical assistance to local governments in investment of surplus funds.

(2) The board may establish fees to cover the cost of such services, which shall be paid by the unit of local government requesting such service. Such fees shall be deposited to the credit of the appropriation or appropriations from which the costs of providing the services have been paid or are to be charged.



The education offerings of the Fund have been substantially expanded since the last review and were offered on the website beginning in April, 2012. These materials are provided by outside vendors at no cost to the Fund and are directed to participant employees through a learning management system, particularly as a way of satisfying professional continuing education requirements at reduced cost.

**218.412 Rulemaking authority.—**

The board may adopt rules as it deems necessary to carry out the provisions of this part for the administration of the trust fund.

As noted above, the Board has adopted rules for the administration of the Fund at Chapter 19-7, Florida Administrative Code. These rules are not required by statute, but since they exist, Rule 19-7.002 should be updated to reference the current IPS.

**OTHER SECTIONS OF PART IV, CHAPTER 218, FLORIDA STATUTES**

Part IV of Chapter 218, Florida Statutes covers other facets of investment of local government funds, such as local government investment policies (Section 218.415) and the Fund B Surplus Funds Trust Fund (Sections 218.417 through 218.422). Because this review, as mandated by Section 218.405, is of the pooled investment fund created by 218.405 only, these sections are not a part of this review. Note, however, that a portion of the Monthly Summary Report is devoted to Fund B status and actions, and that a separate tab on the Fund website covers details of Fund B.