

STATE BOARD OF ADMINISTRATION OF FLORIDA ("SBA")
2023-2024 ANNUAL REGULATORY PLAN

[Required pursuant to Chapter 2015-162, Laws of Florida]

OCTOBER 1, 2023

- Laws Amended/Created over previous 12 months that modify the agency's duties or authority (as required by Section 120.74(1)(a), Florida Statutes):

Chapter 2023-028, Laws of Florida (CS/CS HB 3), Corporate Activism

In August 2022, the Governor, Attorney General, and Chief Financial Officer [as trustees of the State Board of Administration (SBA)], had directed the SBA to invest funds of the Florida Retirement System ("FRS") Defined Benefit Plan in a manner that prioritizes the highest return on investment, without taking into consideration nonpecuniary factors. Pursuant to the new law, this directive has been codified and expanded to cover all funds that are invested by state and local governments, including general revenue, trusts dedicated to specific purposes, money held by retirement plans, and surplus funds. [Specifically excluded are the funds of the FRS Investment Plan that are comprised of individual member-directed investment accounts]. All investment decisions, including written policies and the exercise of shareholder rights, must be driven solely by pecuniary factors, and may not sacrifice investment return to promote non-pecuniary factors. The new law authorizes the Attorney General to bring civil or administrative actions to enforce provisions of the law. The term "pecuniary factor" is defined as a factor that is expected "to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests."

The new law also amends Section 112.656, Florida Statutes, to clarify that the investment decisions of retirement plan fiduciaries (except for those of the FRS Investment Plan) must comply with Section 112.662, a newly created statutory section that incorporates the pecuniary language into the existing retirement plan fiduciary duty language in chapter 112.

The law requires biennial reporting (beginning December 15, 2023) detailing and reviewing the governance policies concerning decision-making in proxy voting decisions and adherence to the fiduciary standards required of such retirement system or plan, including the exercise of shareholder rights. The SBA is required to provide this reporting on behalf of the Florida Retirement System to the Governor, the Attorney General, Chief Financial Officer, President of the Senate, and the Speaker of the House of Representatives. [All other retirement systems or plans must submit their reports to the Florida Department of Management Services (DMS)].

The law further amends Section 215.4755, Florida Statutes, that provides certain certification and disclosure requirements for Investment Advisers and Managers. Section

215.4755 currently requires investment advisers and managers who have discretionary investment authority for direct holdings to make an annual certification to the SBA. This law adds an additional required certification that all investment decisions made on behalf of the trust funds and the SBA are made based solely on pecuniary factors as defined in s. 215.47(10)(a) and do not subordinate the interests of the participants and beneficiaries of the funds to other stated objectives. The law states that failure to file the required certification is grounds for termination of any contract between the SBA and the investment advisor or manager and that submission of a materially false certification shall be deemed a willful refusal to comply with the fiduciary standards set forth in the section. The law further provides that if an investment advisor or manager fails to comply with the fiduciary standards, the SBA shall report such noncompliance to the Attorney General, who may bring a civil or administrative action for damages, injunctive relief, and such other relief as may be appropriate. If such action is successful, the Attorney General would be entitled to reasonable attorney fees and costs.

The law further amends Section 215.475 that provides guidance to the SBA on the development of the Florida Retirement System Defined Benefit Plan Investment Policy Statement (IPS). This law clarifies that the IPS must comply with 215.47(10) - the fiduciary standard of care, as discussed above.

Finally, the law creates Section 215.855, Florida Statutes, that is entitled Investment Manager External Communications, and applies to contracts between governmental entities and investment managers. The law requires such contracts to contain the following provisions: (a) any written communication made by the investment manager to a company in which such manager invests public funds on behalf of a governmental entity must include the following disclaimer in a conspicuous location whenever such communication discusses social, political, or ideological interests; subordinates the interests of the company's shareholders to the interest of another entity, or advocates for the interest of an entity other than the company's shareholders: "The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the State of Florida"; and (b) the contract may be unilaterally terminated at the option of the governmental entity if the investment manager does not include this disclaimer.

Effective Date: July 1, 2023.

No rule changes are required.

Chapter 2023-111, Laws of Florida (CS/CS/SB 110)- State Board of Administration

The law provides that the State Board of Administration ("SBA") is prohibited from paying benefits to an FRS Investment Plan member that has been charged with certain felonies. The law also provides authority to the SBA to develop investment products that can be offered as an option in the FRS Investment Plan. The new law allows the SBA to waive the requirement that an Investment Plan member's spouse acknowledge the member's choice of a beneficiary other than the spouse. Such waiver would apply when (1) the married

member designates someone other than his or her spouse, (2) the spouse either cannot be located, or fails to affirmatively acknowledge the designation, and (3) the member then submits an affidavit that explains the circumstances and requests waiver of the spousal acknowledgement by the state board. A waiver is not required in the case of designation of non-spouse contingent beneficiaries.

The new law also amends Section 215.47(6), Florida Statutes, to reduce the specific information the SBA must give to its Investment Advisory Council in advance on an investment that is not specifically authorized by Sections 215.44-215.53, Florida Statutes, and instead allows for a “detailed analysis of the investment” for any such proposed investment activity. This aligns with the resolution adopted that directs the SBA to invest based solely on pecuniary factors. In addition, the new law amends Section 215.47(15), Florida Statutes, to increase the amount of funds that the SBA may invest in alternative investments to 30 percent of total fund assets from 20 percent of total fund assets. Section 215.47(2), Florida Statutes, is amended to allow the SBA to create subsidiary limited liability entities or joint ventures, otherwise known as a real estate financing pool. These subsidiary interests will be empowered to hold the SBA’s investment mortgages and related instruments that are secured by real property, and instruments that contain provisions for equity or income participation or with provisions for convertibility to equity ownership, and interests in real property related collective investment funds.

The new law also amends Section 215.4725, Florida Statutes, to define the terms “boycott Israel” and “boycott of Israel” to include “taking adverse action, including changes to published commercial financial ratings, risk ratings, and controversy ratings based on nonpecuniary factors, to inflict economic harm on Israel or persons or entities doing business with Israel or in Israeli-controlled territories,” and to delete the exclusion of restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel. Divestment, in addition to the prohibition on investment under current law, is required from companies that are on the list of Scrutinized Companies that Boycott Israel, if, after 90 days following notice, the company continues to boycott Israel. All publicly traded securities of the company must be sold, redeemed, or withdrawn within 12 months after the company’s most recent appearance on the list. The law also provides procedures for companies that cease the boycott of Israel after being notified, but then resume such activities thereafter.

Effective Date: May 24, 2023.

Rule 19-11.002, F.A.C., is being amended to indicate the circumstances under which the SBA may waive the requirement that a spousal acknowledgement be obtained by an Investment Plan member when that member names as his or her primary beneficiary, someone other than the member’s spouse.

Chapter 2022-271, Laws of Florida (Senate Bill No. 2-A)- Florida Optional Reinsurance Assistance Program

The new law was created by the Florida Legislature during a Special Session in December 2022. The law creates a program called the Florida Optional Reinsurance Assistance (FORA) program to be administered by the State Board of Administration and is a one-year program designed to operate in conjunction with the Reinsurance to Assist Policyholders (RAP) program and provides four optional layers of reinsurance. The Florida Legislature has allocated up to \$1 billion in General Revenue funds to support the program. FORA Insurers will be reimbursed for 100% of their covered losses from the two covered events with the largest losses in excess of their FORA retention, not to exceed their aggregate FORA limit. In order to be eligible for coverage under the FORA program, an insurer must be a participating insurer in the Florida Hurricane Catastrophe Fund (FHCF) as of November 30, 2022. Citizens Property Insurance Corporation is not eligible for FORA coverage.

The first three layers of FORA are designed to provide coverage only for the RAP insurers that were required to participate in Contract Year 2022-2023. Therefore, RAP insurers for Contract Year 2023-2024 were not eligible to select FORA layers 1 through 3, because that coverage would duplicate the RAP coverage already in place. All insurers who selected FORA layers 1 through 3, and eligible RAP insurers in Contract year 2023-2024, were able to select layer 4.

Effective Date: **December 16, 2022.**

No rule changes are required. Authority and all duties are outlined in the statutory provisions.

Chapter 2023-217, Laws of Florida (Senate Bill 418), Insurance

The new law amends several insurance related statutes. For the SBA, as administrator of the Florida Hurricane Catastrophe Fund, the following provisions are important:

1. It provides that a residential property insurer's rate filing may estimate projected hurricane losses by using a weighted or straight average of two or more models approved by the Florida Commission on Hurricane Loss Projection Methodology.
2. It provides that the Executive Director of the Citizens Property Insurance Corporation and the Director of the Division of Emergency Management, respectively, may appoint a designee to be a member of the Commission on Hurricane Loss Projection Methodology.

Effective Date: **July 1, 2023**

No rule changes are required.

NOTE: There are a few laws that affect all Florida governmental entities, but that do not need to be implemented by rulemaking by the governmental entities, nor by the sending of reports or other information to another governmental entity. The SBA recognizes the existence of these new laws and may revise, or has revised, its internal policies, procedures and contracts in view of these changes. The new laws are as follows:

Chapter No. 2023-005, Laws of Florida (HB 9B): Reedy Creek Improvement District

This law, *inter alia*, renames the Reedy Creek Improvement District to the Central Florida Tourist Oversight District; continues the current obligations and services of the district including Florida Retirement System (“FRS”) [so that current FRS members do not have to apply for new FRS membership]; limits the authority of the district to expand new services without legislative approval; and replaces the current landowner appointed governing board with appointees nominated by the governor and approved by the Senate.

Effective Date: **February 27, 2023..**

Chapter 2023-32, Laws of Florida (SB 258)- Prohibited Applications on Government-Issued Devices

This law directs the Department of Management Services to create a list of prohibited applications and requires a public employer to block access to such applications on networks that it operates and to restrict access to such applications on government-issued devices. Additionally, the law prohibits all persons from downloading prohibited applications on a government-issued device and requires public employees to remove such applications from government issued devices.

Effective: **July 1, 2023.**

Chapter No. 2023-316, Laws of Florida (CS/CS/HB 1121): Florida Retirement System- Post-Employment Volunteer Programs

Authorizes FRS employers to establish volunteer programs for individuals who have retired from the FRS, so that these individuals can provide certain services without jeopardizing their retirement status. The law establishes criteria for such programs.

Effective Date: **July 1, 2023.**

Chapter No. 2023-193, Laws of Florida (CS/SB 7024): Florida Retirement System

This law makes various changes to the Florida Retirement System and the Retiree Health Insurance Subsidy.

The law changes the “normal retirement date” for Special Risk Class members who enrolled on or after July 1, 2011, to age 55 with 8 years of service or at any age with 25 years of service in the Special Risk Class.

The law also makes three changes to the Deferred Retirement Option Program (DROP), effective upon becoming a law. These changes are as follows:

- Allow all FRS members, regardless of class membership and occupation, to enroll in DROP at any time after reaching the normal retirement date, rather than within the 1-year period immediately following their normal retirement date.
- Extend the maximum time a member can participate in DROP from 5 years to 8 years, regardless of class membership and occupation, and from 8 years to 10 years for certain K-12 instructional personnel.
- Increase the DROP interest rate from 1.3 percent to 4 percent on DROP accumulations held on or after July 1, 2023.

The law increases the employer-paid contributions to Investment Plan member accounts by 2 percent of the member's compensation.

The law establishes the employer-paid contribution rates for each class of employee and officer participating in the FRS beginning July 1, 2023. These rates should fund the normal cost as well as the amortized unfunded actuarial liabilities of the Florida Retirement System.

The law increases the monthly retiree health insurance subsidy (HIS), from \$5 to \$7.50 for each year of the recipient's service. The maximum HIS benefit is now \$225 per month, up from \$150 per month. The minimum subsidy an eligible retiree can receive is also increased from \$30 per month to \$45 per month. These benefits are funded by an increase from 1.66 percent to 2 percent of payroll of the employers participating in the FRS.

Effective Date: These provisions take effect upon becoming law, except as otherwise provided.

Chapter No. 2023-201, Laws of Florida (CS/CS for SB 262): Technology Transparency

This law prohibits officers or salaried employees of governmental entities from using their positions or state resources to communicate with a social media platform to request the removal of content or accounts. Additionally, a governmental entity cannot initiate or maintain any agreements with a social media platform for the purpose of content moderation. The law further creates certain protections for children in online platforms, primarily relating to the collection and use of personal information and creates a "Florida Digital Bill of Rights" that provides consumers with certain specified rights again primarily relating to the collection of personal data.

Effective: July 1, 2024.

Chapter 2023-33, Laws of Florida (CS/CS for SB 1310)- Substitution of Work Experience for Postsecondary Education Requirements

The law limits a public employer from including postsecondary education requirements as a baseline requirement for a position except as an alternative to a specified number of years of direct experience necessary to qualify for such position.

Effective: **July 1, 2023.**

Chapter 2023-41, Laws of Florida (CS for SB 234)- Statutorily Required Reports

The law requires the Division of Library and Information Services within the Department of State to create and administer an Internet-based system to which state agencies, water management districts, and other state entities must electronically submit their statutorily required reports. The Division is required to compile a list of statutorily required reports and their submission dates by November 1, 2023. This law is not applicable to the SBA.

Effective Date: **July 1, 2023.**

Chapter No. 2023-33, Laws of Florida (CS/CS for SB 264): Interests of Foreign Countries

This law generally restricts the issuance of government contracts or economic development incentives to, or real property ownership by, foreign principals, that are defined as certain individuals and entities associated with foreign countries of concern. "Foreign countries of concern" include the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, and the Syrian Arab Republic. This may require the SBA to observe certain restrictions when making sales from its real property portfolio.

Effective Date: **July 1, 2023.**

Chapter 2023-131 (Senate Bill 50): Public Records- Judicial Assistants

The law creates a public records exemption for current judicial assistants. Judicial assistants provide administrative, secretarial, organizational, and clerical support to judges in the county and circuit courts, district courts of appeal, and the Florida Supreme Court. Assistants to Administrative Law Judges of the Division of Administrative Hearings are not encompassed by this exemption.

The law exempts from public disclosure the following information:

- A current judicial assistant's home address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a current judicial assistant's spouse and children.

- The names and locations of schools and day care facilities attended by a current judicial assistant's children.

This exemption applies to information held by an agency before, on, or after July 1,

These provisions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless the provisions are reviewed and saved from repeal by the Legislature.

Effective Date: **July 1, 2023.**

Chapter No. 2023-75 (House Bill 7007): OGSR/Security and Firesafety System Plan

The law removes the scheduled repeal of the exemption from public records requirements for certain security or firesafety system plans; repeals provisions relating to security & firesafety systems; removes scheduled repeal of exemption from public meetings requirements for portion of meeting that would reveal security or firesafety system plan or portion thereof.

Effective Date: **October 1, 2023.**

Chapter No. 2023-040 (CS/CS for SB 1718): Immigration

The law retains the current requirements for public employers, contractors and subcontractors to use the E-verify system. The law prohibits a person from operating a motor vehicle if his or her driver's license is issued by another state which exclusively provides such a license to undocumented immigrants who are unable to prove lawful presence in the United States when the licenses are issued.

Effective Date: **July 1, 2023.**

Chapter No. 2023-080 (SB 7054): Central Bank Digital Currency

This law prohibits a United States Federal Reserve central bank digital currency (CBDC), to the extent one is developed, and foreign CBDC from being treated as money under the Florida Uniform Commercial Code (Florida UCC). CBDC is defined in the Florida UCC as a digital currency that is issued by the U.S. Federal Reserve, foreign reserve system, or other specified entity, or that is processed or validated directly by them. CBDC is excluded from the definition of "money" in Section. 671.201, Florida Statutes.

Effective Date: **July 1, 2023.**

Chapter No. 2023-144 (HB 487): Department of Financial Services

The CFO, with approval of the State Board of Administration, is required to establish a deferred compensation plan for state employees under the "Government Employees' Deferred Compensation Act." This retirement savings plan allows eligible employees to supplement any existing retirement and pension benefits by saving and investing before-tax dollars through a tax-deferred voluntary salary contribution. The Deferred Compensation Plan has been open to employees of state agencies, State University System, State Board of Administration, and other special district employers (subject to employer election). The law extends eligibility to any "government employee" of any "governmental unit of the state," including any special district or water management district or any Florida College System institution.

Effective Date: **July 1, 2023.**

Chapter No. 2023-107 (HB 7031): Public Records

This law extends the exemption from public records requirements for the address of a victim of an incident of mass violence and removes the scheduled repeal of the exemption.

Effective Date: **October 1, 2023.**

Chapter No. 2023-153 (CS for HB 1215): Public Records

This law provides an exemption from public records requirements for the personal identifying and location information of current or former inspectors or investigators of the Department of Agriculture and Consumer Services and the spouses and children of the current or former inspectors or investigators. The exemption is scheduled for repeal October 2, 2024, unless re-enacted by the Legislature.

Effective Date: **July 1, 2023.**

- Laws not otherwise listed that the Agency expects to implement by rulemaking before the following July:

N/A

- Updates to prior year's plan or supplement. If in a prior year, a law was identified requiring rulemaking to implement but notice of proposed rule has not been published:

N/A

Additional Information: Proposed Changes to Rules that are required by existing laws:


See attached sheet.

State Board of Administration/Florida Hurricane Catastrophe Fund
2023-2024 Annual Regulatory Plan


Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
19-8.010	Reimbursement Contract	Rule Amendment	Statutory Mandate (State statutory mandate, s. 215.555(17)(b) requires the SBA to adopt the Reimbursement Contract form no later than February 1 of each year.)	The Reimbursement Contract is annually reviewed and revised to accommodate statutory changes, technical issues, and any need for clarification.	Section 215.555, F.S., originally enacted in 1993, establishes the Florida Hurricane Catastrophe Fund within the SBA and provides for reimbursement of a portion of residential property insurers' hurricane losses. Rule 19-8.010 implements this statute by specifying the form of the annual Reimbursement Contract.	Various technical and clarifying changes are anticipated at this time.	None	Yes
19-8.028	Reimbursement Premium Formula	Rule Amendment	Statutory Mandate (State statutory mandate, s. 215.555(5) requires the SBA to adopt a formula for the "actuarially indicated" premium to be paid by insurers to the FHCF. To comply with the "actuarially indicated" requirement, the premium formula is revised annually.)	The annual revision of the Reimbursement Premium Formula also accommodates statutory changes, technical issues, and any need for clarification.	Section 215.555, F.S., originally enacted in 1993, establishes the Florida Hurricane Catastrophe Fund within the SBA and provides for reimbursement of a portion of residential property insurers' hurricane losses. Rule 19-8.028 implements this statute by providing the formula for determining premiums to be paid to the fund by participating insurers.	Implementation of actuarial recommendations pursuant to s. 215.555(5)(b), F.S., and technical and clarifying changes	None	Yes
19-8.029	Insurer Reporting Requirements and Responsibilities	Rule Amendment	Technical Changes	This rule provides for insurer reporting of insured values, as required by s. 215.555(5)(c), F.S., and instructions to insurers relating to examinations under s. 215.555(4)(f), F.S. It is revised annually to accommodate statutory changes, technical issues, and any need for clarification.	Section 215.555, F.S., originally enacted in 1993, establishes the Florida Hurricane Catastrophe Fund within the SBA and provides for reimbursement of a portion of residential property insurers' hurricane losses. Rule 19-8.029 implements this statute by providing for reporting of insured values to the fund and providing instructions relating to examination of insurers.	Only technical and clarifying changes are anticipated at this time.	None	Yes

STATE BOARD OF ADMINISTRATION OF FLORIDA
ANNUAL REGULATORY PLAN CERTIFICATION

I HEREBY CERTIFY that the Annual Regulatory Plan (ARP) for the State Board of Administration of Florida ("SBA"), including the Florida Hurricane Catastrophe Fund, as required pursuant to Section 120.74(1), Florida Statutes has been reviewed by the undersigned. I also certify that the SBA, including the Florida Hurricane Catastrophe Fund, at least annually reviews all of its rules, the most recent review occurring in August 2023, to determine whether the rules remain consistent with the SBA's rulemaking authority and the laws implemented.



Lamar Taylor
Interim Executive Director & CIO
State Board of Administration of
Florida



Maureen M. Hazen
General Counsel
State Board of Administration of
Florida

ENTERED this 29th day of September 2023.

A copy of this Regulatory Plan will be posted on the SBA's website on or before October 1, 2023.