

Chapter 459

(Senate Bill 982)

AN ACT concerning

Maryland State Retirement and Pension System – Private Equity and Venture Capital Authority Investments

FOR the purpose of ~~establishing the Maryland Private Equity and Venture Capital Authority in the State Retirement and Pension System for a certain purpose; providing for the membership, terms, chair, quorum, and duties of the Authority; prohibiting a member of the Authority from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring members of the Authority to file certain financial disclosures; requiring, beginning in a certain fiscal year, the Authority to make certain recommendations to~~ authorizing the Board of Trustees for the State Retirement and Pension System regarding the investment of to enter into an agreement with the Maryland Technology Development Corporation or another entity to make and manage investments in certain private equity and venture capital in the State with certain additional funds; requiring the Board of Trustees to make certain investments in accordance with certain recommendations of the Authority; prohibiting the Board of Trustees from making certain investments under certain circumstances; prohibiting a member of the Authority from making certain recommendations under certain circumstances; if certain conditions are not met, to develop a certain process to authorize the Maryland Technology Development Corporation or another entity to provide certain recommendations regarding certain investments; providing that an entity that provides certain services to the Board of Trustees in accordance with this Act shall be a fiduciary of the several systems subject to certain standards of care and prohibited from taking certain actions under certain provisions of law; requiring certain profits and return of principal from certain investments to accrue to certain accumulation funds; requiring the Board of Trustees to include certain information in a certain report; providing for the initial terms of the members of the Authority; submit a certain report that includes certain information to certain committees of the General Assembly on or before a certain date each year; requiring a certain entity to submit a certain report that includes certain information to certain committees of the General Assembly on or before a certain date each year; providing certain immunities from liability for certain actions or decisions made by certain persons; requiring the Board of Trustees to act in good faith in carrying out the requirements of this Act in a certain manner; providing for the construction of this Act; declaring the intent of the General Assembly; defining certain terms; and generally relating to ~~the establishment of the Maryland Private Equity and Venture Capital Authority~~ investments in private equity and venture capital in the State and the State Retirement and Pension System.

~~BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21-108(e)~~

~~Annotated Code of Maryland
(2015 Replacement Volume)~~

BY adding to

Article – State Personnel and Pensions

~~Section 21-701 through 21-707 to be under the new subtitle “Subtitle 7. Maryland
Private Equity and Venture Capital Authority” Section 21-123.2~~

Annotated Code of Maryland
(2015 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

~~21-108.~~

~~(e) Subject to §§ 21-122 and 21-123 of this subtitle AND § 21-706 OF THIS
TITLE, the Board of Trustees shall have full power to invest the assets of the several
systems.~~

~~SUBTITLE 7. MARYLAND PRIVATE EQUITY AND VENTURE CAPITAL AUTHORITY.~~

~~21-701. 21-123.2.~~

(A) (1) IN THIS ~~SUBTITLE~~ SECTION THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED.

~~(B) “AUTHORITY” MEANS THE MARYLAND PRIVATE EQUITY AND VENTURE
CAPITAL AUTHORITY ESTABLISHED UNDER § 21-702 OF THIS SUBTITLE.~~

~~(C) (2) “PRIVATE EQUITY” MEANS AN ASSET CLASS CONSISTING OF
EQUITY SECURITIES AND DEBT IN OPERATING COMPANIES THAT ARE NOT PUBLICLY
TRADED ON A STOCK EXCHANGE.~~

~~(D) (3) “VENTURE CAPITAL” MEANS AN INVESTMENT OF CAPITAL TO A
BUSINESS AT ANY STAGE OF ITS DEVELOPMENT BEFORE THE BUSINESS MAKES A
PUBLIC OFFERING OF STOCK.~~

~~21-702.~~

~~(A) THERE IS A MARYLAND PRIVATE EQUITY AND VENTURE CAPITAL
AUTHORITY IN THE STATE RETIREMENT AND PENSION SYSTEM.~~

~~(B) THE PURPOSE OF THE AUTHORITY IS TO PROVIDE RECOMMENDATIONS TO THE BOARD OF TRUSTEES REGARDING INVESTMENTS IN PRIVATE EQUITY AND VENTURE CAPITAL IN THE STATE.~~

~~21-703.~~

~~(A) THE AUTHORITY CONSISTS OF THE FOLLOWING MEMBERS:~~

~~(1) THE EXECUTIVE DIRECTOR OF THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;~~

~~(2) THE CHAIRMAN OF THE BOARD OF TRUSTEES, OR THE CHAIRMAN'S DESIGNEE;~~

~~(3) FOUR MEMBERS WITH EXPERTISE IN TECHNOLOGY, TECHNOLOGY TRANSFER, PRIVATE EQUITY, OR VENTURE CAPITAL APPOINTED AS FOLLOWS:~~

~~(I) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(II) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE;~~
~~AND~~

~~(III) TWO MEMBERS APPOINTED BY THE GOVERNOR;~~

~~(4) ONE REPRESENTATIVE OF A PUBLIC INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN TECHNOLOGY TRANSFER AND HIGHER EDUCATION;~~
~~AND~~

~~(5) ONE REPRESENTATIVE OF A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN TECHNOLOGY TRANSFER AND HIGHER EDUCATION.~~

~~(B) THE MEMBERS APPOINTED BY THE PRESIDENT AND THE SPEAKER MAY NOT BE ELECTED OFFICIALS.~~

~~(C) EACH MEMBER SHALL RESIDE IN THE STATE.~~

~~(D) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.~~

~~(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.~~

~~(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.~~

~~(4) A MEMBER APPOINTED BY THE GOVERNOR MAY BE REMOVED BY THE GOVERNOR WITH OR WITHOUT CAUSE.~~

~~(5) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON JULY 1, 2016.~~

~~21-704.~~

~~(A) THE AUTHORITY SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.~~

~~(B) THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND THEIR TERMS OF OFFICE.~~

~~21-705.~~

~~(A) (1) FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.~~

~~(2) AN ACT OF THE AUTHORITY MUST BE APPROVED BY A MAJORITY VOTE OF THE MEMBERS ATTENDING A MEETING AT WHICH A QUORUM IS PRESENT.~~

~~(B) A MEMBER OF THE AUTHORITY:~~

~~(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE AUTHORITY; BUT~~

~~(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(C) A MEMBER OF THE AUTHORITY SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.~~

~~21-706.~~

~~(B) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IN THE STATE SHALL INCLUDE AN INVESTMENT IN AN ENTITY OR VEHICLE THAT:~~

~~(1) IS DOMICILED IN THE STATE;~~

~~(2) OPERATES IN THE STATE; OR~~

(3) IS REASONABLY EXPECTED TO INVEST IN ENTITIES THAT ARE IN THE STATE.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT STATE CONTRIBUTIONS IN EXCESS OF STATUTORY REQUIREMENTS BE INVESTED IN THE STATE WITH A GOAL TO INCREASE THE RISK CAPITAL AVAILABLE IN THE STATE, IF THE INVESTMENTS ARE CONSISTENT WITH, AND DO NOT COMPROMISE OR CONFLICT WITH, THE FIDUCIARY DUTIES OF THE BOARD OF TRUSTEES TO THE PARTICIPANTS OF THE SEVERAL SYSTEMS.

~~(A) (D)~~ (1) FOR FISCAL YEAR 2017 AND EACH FISCAL YEAR THEREAFTER, THE AUTHORITY SHALL MAKE RECOMMENDATIONS TO THE BOARD OF TRUSTEES FOR INVESTMENTS THE BOARD OF TRUSTEES MAY ENTER INTO AN AGREEMENT WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION OR ANOTHER ENTITY TO MAKE AND MANAGE INVESTMENTS ON BEHALF OF THE BOARD OF TRUSTEES IN PRIVATE EQUITY AND VENTURE CAPITAL IN THE STATE WITH THE AMOUNT OF MONEY APPROPRIATED TO THE SYSTEM, THE STATE RETIREMENT AGENCY, OR THE ACCUMULATION FUNDS OF THE SEVERAL SYSTEMS THAT IS IN ADDITION TO:

(I) THE AMOUNTS APPROPRIATED FOR THE STATE AND LOCAL EMPLOYER CONTRIBUTIONS AND THE SUPPLEMENTAL CONTRIBUTION REQUIRED UNDER §§ 21-308, 21-309, 21-309.1, AND 21-310 OF THIS ~~SUBTITLE~~ TITLE;

(II) THE AMOUNT APPROPRIATED UNDER § 7-311(J)(1)(I)1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(III) ANY OTHER AMOUNTS REQUIRED BY ANY OTHER PROVISIONS OF LAW TO BE APPROPRIATED TO THE SYSTEM, THE STATE RETIREMENT AGENCY, OR THE ACCUMULATION FUNDS OF THE SEVERAL SYSTEMS.

(2) IF THE BOARD OF TRUSTEES DOES NOT ENTER INTO AN AGREEMENT WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION OR ANOTHER ENTITY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL DEVELOP A PROCESS THAT AUTHORIZES THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION OR ANOTHER ENTITY TO PROVIDE RECOMMENDATIONS REGARDING INVESTMENTS IN PRIVATE EQUITY AND VENTURE CAPITAL IN THE STATE WITH RESPECT TO THE ADDITIONAL AMOUNT DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(2) (3)~~ (3) THE INVESTMENTS OR RECOMMENDATIONS MADE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THIS SECTION SHALL INCLUDE A GOAL OF INVESTMENTS OR RECOMMENDATIONS FOR

THE INVESTMENT OF 50% OF THE FUNDS IN COMMERCIALIZATION OF TECHNOLOGY SPONSORED OR CREATED BY A UNIVERSITY IN THE STATE.

(4) AN ENTITY PROVIDING SERVICES TO THE BOARD OF TRUSTEES IN ACCORDANCE WITH PARAGRAPH (1) OR (2) OF THIS SUBSECTION SHALL BE A FIDUCIARY OF THE SEVERAL SYSTEMS IN ACCORDANCE WITH SUBTITLE 2 SUBJECT TO THE STANDARDS OF CARE UNDER § 21-203 OF THIS TITLE AND THE PROHIBITED TRANSACTIONS UNDER § 21-205 OF THIS TITLE, WITH RESPECT TO THE SERVICES PROVIDED.

~~(B) (1) WITH RESPECT TO THE ADDITIONAL AMOUNT DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL MAKE INVESTMENTS IN PRIVATE EQUITY AND VENTURE CAPITAL IN THE STATE IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE AUTHORITY.~~

~~(2) IF THE BOARD OF TRUSTEES REJECTS THE RECOMMENDATIONS OF THE AUTHORITY, THE BOARD OF TRUSTEES IS PROHIBITED FROM INVESTING THE AMOUNT DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(C) A MEMBER OF THE AUTHORITY MAY NOT MAKE A RECOMMENDATION TO INVEST THE ADDITIONAL AMOUNT DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION WITH A VENTURE CAPITAL FIRM OR A PRIVATE EQUITY FIRM IN WHICH THE MEMBER HAS A FINANCIAL INTEREST.~~

~~(D)~~ (E) ALL PROFITS OF AND RETURN OF PRINCIPAL FROM INVESTMENTS MADE UNDER THIS SECTION SHALL ACCRUE TO THE ACCUMULATION FUNDS OF THE SEVERAL SYSTEMS.

~~21-707.~~

~~THE BOARD OF TRUSTEES SHALL INCLUDE, AS PART OF THE REPORT REQUIRED UNDER § 21-112 OF THIS TITLE,~~

(F) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 4-335 OF THE GENERAL PROVISIONS ARTICLE, THAT INCLUDES A DETAILED DESCRIPTION OF:

(I) THE INVESTMENTS, IF ANY, MADE UNDER THIS SECTION;

~~(1)~~ (II) THE RECOMMENDATIONS, IF ANY, MADE BY THE AUTHORITY UNDER THIS SUBTITLE SECTION; AND

~~(2)~~ (III) THE ACTIONS, IF ANY, TAKEN BY THE BOARD OF TRUSTEES ON THE RECOMMENDATIONS MADE BY THE AUTHORITY UNDER THIS SECTION;

(IV) THE INVESTMENT PERFORMANCE OF ANY INVESTMENTS MADE UNDER THIS SECTION;

(V) TO THE EXTENT POSSIBLE, AN ACCOUNTING OF THE FEES AND EXPENSES INCURRED UNDER THIS SECTION; AND

(VI) TO THE EXTENT POSSIBLE, THE RATIO OF FUNDS INVESTED IN PROJECTS UNDER THIS SECTION TO THE TOTAL PERCENTAGE OF VENTURE CAPITAL FUNDS RAISED IN THE STATE BY ALL SOURCES.

(2) ON OR BEFORE DECEMBER 1 EACH YEAR, THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION OR ANOTHER ENTITY WITH WHICH THE BOARD OF TRUSTEES ENTERED INTO AN AGREEMENT UNDER SUBSECTION (D)(1) OR (2) OF THIS SECTION SHALL SUBMIT A REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THAT, TO THE EXTENT POSSIBLE, PROVIDES:

(I) THE ECONOMIC BENEFIT GENERATED FROM INVESTMENTS MADE UNDER THIS SECTION, INCLUDING:

1. THE CREATION OF NEW BUSINESSES;
2. THE EXPANSION OF EXISTING BUSINESSES;
3. THE CREATION OF NEW JOBS;
4. THE TERMINATION OF ANY JOBS; AND
5. ANY INCREASES IN PAYROLL; AND

(II) THE NUMBER OF BUSINESSES RECEIVING FUNDS FROM INVESTMENTS UNDER THIS SECTION THAT SUBSEQUENTLY RELOCATE TO OTHER STATES OR COUNTRIES.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the members of the Maryland Private Equity and Venture Capital Authority appointed under~~

~~§ 21-703 of the State Personnel and Pensions Article, as enacted by this Act, shall expire as follows:~~

- ~~(1) two members in 2018;~~
- ~~(2) two members in 2019; and~~
- ~~(3) two members in 2020.~~

(G) THE BOARD OF TRUSTEES, OR ANY OTHER FIDUCIARY OF THE SEVERAL SYSTEMS AS DEFINED IN § 21-201(B) OF THIS TITLE, MAY NOT BE HELD LIABLE FOR ANY ACTIONS TAKEN OR DECISIONS MADE IN GOOD FAITH FOR THE PURPOSE OF COMPLYING WITH OR EXECUTING THE REQUIREMENTS OF THIS SECTION.

(H) THE BOARD OF TRUSTEES SHALL ACT IN GOOD FAITH TO CARRY OUT THE REQUIREMENTS OF THIS SECTION IN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL LAW, INCLUDING RELEVANT JUDICIAL DECISIONS.

(I) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD OF TRUSTEES TO TAKE ACTION AS DESCRIBED IN THIS SECTION UNLESS THE BOARD OF TRUSTEES DETERMINES, IN GOOD FAITH, THAT THE ACTION IS CONSISTENT WITH THE FIDUCIARY RESPONSIBILITIES OF THE BOARD OF TRUSTEES AS DESCRIBED IN SUBTITLE 2 OF THIS TITLE.

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2016.

Approved by the Governor, May 10, 2016.