

# SENATE BILL 255

K4, P2

7lr1431  
CF HB 202

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By: **Senator Guzzone (Chair, Joint Committee on Pensions)**

Introduced and read first time: January 20, 2017

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Retirement Agency and Pension System – Authority to Arrange Custody of**  
3 **Investments and Procurement Exemption**

4 FOR the purpose of exempting from certain procurement law expenditures made by the  
5 ~~State Retirement Agency~~ Board of Trustees for the State Retirement and Pension  
6 System for the safe custody of investments of the State Retirement and Pension  
7 System; transferring the authority to arrange for the safe custody of investments  
8 from the State Treasurer to the ~~Chief Investment Officer of the Investment Division~~  
9 in the Agency Board of Trustees; providing for the application of this Act; and  
10 generally relating to the custody of investments of the State Retirement and Pension  
11 System.

12 BY repealing and reenacting, with amendments,  
13 Article – State Finance and Procurement  
14 Section 11–203(d)  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume and 2016 Supplement)

17 ~~BY repealing and reenacting, without amendments,~~  
18 ~~Article – State Personnel and Pensions~~  
19 ~~Section 21–122(a)(1)~~  
20 ~~Annotated Code of Maryland~~  
21 ~~(2015 Replacement Volume and 2016 Supplement)~~

22 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – State Personnel and Pensions  
 2 Section ~~21-122(d)~~ 21-123 and 21-124  
 3 Annotated Code of Maryland  
 4 (2015 Replacement Volume and 2016 Supplement)

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

7 **Article – State Finance and Procurement**

8 11-203.

9 (d) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article,  
 10 this Division II does not apply to the Board of Trustees of the State Retirement and Pension  
 11 System for:

12 (1) services of managers to invest the assets of the State Retirement and  
 13 Pension System, including real and personal property;

14 (2) expenditures to manage, maintain, and enhance the value of the assets  
 15 of the State Retirement and Pension System in accordance with investment guidelines  
 16 adopted by the Board of Trustees;

17 (3) services related to the administration of the optional retirement  
 18 program under Title 30 of the State Personnel and Pensions Article; [and]

19 (4) services related to the administration of the Postretirement Health  
 20 Benefits Trust Fund; AND

21 **(5) EXPENDITURES FOR THE SAFE CUSTODY, DOMESTIC OR GLOBAL,**  
 22 **OF INVESTMENTS AS PROVIDED UNDER ~~§ 21-122(D)~~ § 21-123(F) OF THE STATE**  
 23 **PERSONNEL AND PENSIONS ARTICLE.**

24 **Article – State Personnel and Pensions**

25 ~~21-122.~~

26 ~~(a) (1) There is an Investment Division in the State Retirement Agency.~~

27 ~~(d) On behalf of the several systems, the Chief Investment Officer:~~

28 ~~(1) may hire external investment managers to invest the assets of the~~  
 29 ~~several systems;~~

1 ~~(2) may select and invest in specific investment vehicles, including limited~~  
2 ~~partnerships, private equity fund investments, and private real estate fund investments;~~  
3 ~~[and]~~

4 ~~(3) may terminate the appointment of an external investment manager;~~  
5 **AND**

6 ~~(4) MAY MAKE ARRANGEMENTS FOR THE SAFE CUSTODY, DOMESTIC~~  
7 ~~OR GLOBAL, OF INVESTMENTS WITH ONE OR MORE DULY QUALIFIED CUSTODIAN~~  
8 ~~BANKS OR TRUST COMPANIES.~~

9 21-123.

10 (a) Except for those assets that the law requires another entity or person to  
11 control, the State Retirement Agency, under the supervision of the Board of Trustees, shall  
12 manage all assets of the several systems.

13 (b) The Board of Trustees:

14 (1) is deemed the owner of all the assets of the several systems; but

15 (2) may delegate some or all incidents of ownership to the State Retirement  
16 Agency to administer the investment portfolios of the several systems.

17 (c) (1) The Board of Trustees may invest assets of the several systems subject  
18 to the conditions that it imposes.

19 (2) The Board of Trustees shall include the conditions that it adopts under  
20 paragraph (1) of this subsection in the investment policy manual required by § 21-116(c)  
21 of this subtitle.

22 (d) (1) This subsection applies only to the execution of:

23 (i) ground rent redemption deeds;

24 (ii) releases or reassignments of mortgages; and

25 (iii) satisfactions or reassignments of notes conveying, releasing, or  
26 reassigning any interest owned by the State for the use of a fund of the several systems.

27 (2) An instrument must be executed by any two of:

28 (i) the State Treasurer;

29 (ii) the Executive Director of the State Retirement Agency;

1                   (iii) the Chief Investment Officer of the State Retirement Agency; or

2                   (iv) another employee of the State Retirement Agency as the  
3 Executive Director designates with the approval of the Board of Trustees.

4           (e)   (1) The Board of Trustees may commingle assets of the several systems,  
5 including the Postretirement Health Benefits Trust Fund, if the Board of Trustees keeps  
6 separate sets of records for each State system or group of State systems listed in paragraph  
7 (2) of this subsection that show:

8                   (i) the percentage of participation of each State system or group of  
9 State systems, including the Postretirement Health Benefits Trust Fund;

10                   (ii) the percentage of income, gains, and losses applicable to each  
11 State system or group of State systems, including the Postretirement Health Benefits Trust  
12 Fund; and

13                   (iii) the total contributions and disbursements applicable to each  
14 State system or group of State systems, including the Postretirement Health Benefits Trust  
15 Fund.

16           (2) The Board of Trustees shall keep records required by paragraph (1) of  
17 this subsection for each of the following:

18                   (i) the group that consists of the Correctional Officers' Retirement  
19 System, the Employees' Pension System, the Employees' Retirement System, and the  
20 Legislative Pension Plan;

21                   (ii) the Judges' Retirement System;

22                   (iii) the Law Enforcement Officers' Pension System;

23                   (iv) the State Police Retirement System;

24                   (v) the group that consists of the Teachers' Pension System and the  
25 Teachers' Retirement System; and

26                   (vi) the Postretirement Health Benefits Trust Fund.

27           **(F) ON BEHALF OF THE SEVERAL SYSTEMS, THE BOARD OF TRUSTEES**  
28 **SHALL MAKE ARRANGEMENTS FOR THE SAFE CUSTODY, DOMESTIC OR GLOBAL, OF**  
29 **INVESTMENTS WITH ONE OR MORE DULY QUALIFIED CUSTODIAN BANKS OR TRUST**  
30 **COMPANIES.**

31           **[(f)] (G)**   (1) Notwithstanding any other law in force on or after July 1, 1988,  
32 unless the law makes specific reference to this subsection, and subject to paragraph (2) of

1 this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations,  
2 papers, records, recommendations, and reports closed to public inspection until:

3 (i) the release of the information would not adversely affect the  
4 negotiation for or market price of a security; and

5 (ii) completion of:

6 1. a proposed purchase or program of purchases leading to a  
7 cumulative position in a security;

8 2. the making, sale, or prepayment of a loan;

9 3. any proposed sale or program of sales leading to the  
10 elimination of a position in a security; or

11 4. the sale or purchase of real estate.

12 (2) The sale or purchase of real estate shall be subject to the approval of a  
13 majority of the Comptroller, Treasurer, and Secretary of Budget and Management, in their  
14 capacity as members of the Board of Trustees.

15 [(g)] (H) Any direct owned real estate purchased as an investment by the State  
16 Retirement and Pension System shall be managed by an external investment manager  
17 selected by the Chief Investment Officer.

18 [(h)] (I) Title 4, Subtitle 3, Part III and § 10-305 of the State Finance and  
19 Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or other  
20 disposition of any real or personal property acquired by the Board of Trustees in any  
21 transaction authorized under this title.

22 21-124.

23 (a) (1) The State Treasurer is the custodian of:

24 (i) the accumulation, annuity savings, and expense funds of the  
25 several systems; and

26 (ii) the assets of the Board of Trustees.

27 (2) The State Retirement Agency shall make all payments from the  
28 accumulation, annuity savings, and expense funds of the several systems in accordance  
29 with regulations that the Board of Trustees adopts with the approval of the State  
30 Treasurer.

1 (b) (1) The State Treasurer may make arrangements with one or more duly  
2 qualified banks or trust companies in this State, organized under the laws of this State or  
3 of the United States, for:

4 (i) [safe custody of investments;

5 (ii)] banking services; and

6 [(iii)] (II) any other function that the State Treasurer considers  
7 necessary to safeguard physically the assets that the Board of Trustees manages.

8 (2) The State Treasurer:

9 (i) may deposit any of the securities that the Board of Trustees  
10 purchases in vaults or in other safe depositories outside the office of the State Treasurer,  
11 whether or not in this State; and

12 (ii) shall deliver to the Board of Trustees a safekeeping receipt that:

13 1. describes the securities that the State Treasurer deposits;

14 and

15 2. is payable on demand and without conditions to the Board  
16 of Trustees, to any designated fund of the several systems that the Board of Trustees  
17 controls, or to the State Treasurer.

18 (3) The Board of Trustees shall keep on file any safekeeping receipt that  
19 the State Treasurer delivers.

20 (c) (1) Subject to paragraph (2) of this subsection, to make disbursements, the  
21 State Treasurer may keep cash on deposit in one or more duly qualified banks or trust  
22 companies in this State that are organized under the laws of this State or of the United  
23 States.

24 (2) The State Treasurer may not:

25 (i) keep more than 10% of the total amount in the funds of the  
26 several systems on deposit as cash; or

27 (ii) keep cash that exceeds 25% of the paid-up capital and surplus of  
28 the bank or trust company in that bank or trust company.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
30 apply only prospectively and may not be applied or interpreted to have any effect on or  
31 application to any contract or amendments to any contracts resulting from a request for  
32 proposals for global custody services issued by the State Treasurer before the effective date  
33 of this Act.

1           SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2017.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.