

SENATE BILL 776

P1

EMERGENCY BILL

4lr3379
CF HB 846

By: **The President (By Request – State Treasurer)**

Introduced and read first time: February 1, 2024

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2024

CHAPTER _____

1 AN ACT concerning

2 **State Investment Portfolio and Local Government Investment Guidelines –**
3 **Investment Standards**

4 FOR the purpose of requiring the Treasurer to consult with governmental entities prior to
5 proposing certain regulations; repealing the limitations on investment in certain
6 assets in which the Treasurer may invest or reinvest certain unexpended or surplus
7 funds; requiring the Treasurer to adopt regulations that specify asset classes in
8 which the Treasurer may invest; requiring the Treasurer to notify governing bodies
9 of certain ~~local~~ governmental ~~units~~ entities about certain updates to certain
10 investment standards; authorizing the Treasurer to retain investments made prior
11 to the effective date of this Act until the investments have reached their respective
12 maturity dates; authorizing the Treasurer and governmental entities to invest or
13 reinvest certain surplus funds in accordance with certain provisions of law prior to
14 the adoption of certain regulations; and generally relating to the Treasurer and
15 investment standards.

16 BY repealing and reenacting, with amendments,
17 Article – Local Government
18 Section 17–204
19 Annotated Code of Maryland
20 (2013 Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Finance and Procurement
23 Section 6–222

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 Annotated Code of Maryland
2 (2021 Replacement Volume and 2023 Supplement)

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

5 **Article – Local Government**

6 17–204.

7 (a) **(1)** After consulting with the governmental entities, the State Treasurer
8 shall adopt by regulation local government investment guidelines to govern the investment
9 of public money by the entities in a manner that:

10 **[(1)] (I)** facilitates sound cash management;

11 **[(2)] (II)** protects the public; and

12 **[(3)] (III)** ensures that each entity has access to its public money.

13 **(2)** **PRIOR TO ADOPTING REGULATIONS THAT ALTER THE TYPES OF**
14 **INVESTMENTS IN WHICH GOVERNMENTAL ENTITIES MAY INVEST PUBLIC MONEY,**
15 **THE STATE TREASURER SHALL CONSULT WITH THE GOVERNMENTAL ENTITIES.**

16 (b) The local government investment guidelines shall:

17 (1) specify the types of investments in which public money may be invested;

18 (2) include guidance for the prudent investment of public money based on
19 cash flow projections, income, liquidity, investment ratings, and risk;

20 (3) require that investments by a county board of education and a county
21 board of library trustees comply with the local investment policy of the county; and

22 (4) prohibit the borrowing of money for the express purpose of investment.

23 **Article – State Finance and Procurement**

24 6–222.

25 (a) **[(1)** In this section, “supranational issuer” means an international
26 development institution that:

27 (i) provides financing, advisory services, or other financial services
28 to the institution’s member countries to achieve the overall goal of improving living
29 standards through sustainable economic growth; and

1 (ii) is rated in the highest credit rating category by a nationally
2 recognized statistical rating organization.

3 (2) "Supranational issuer" includes:

4 (i) the World Bank;

5 (ii) the International Finance Corporation;

6 (iii) the Inter-American Development Bank;

7 (iv) the African Development Bank; and

8 (v) the Asian Development Bank.

9 (b)] (1) Subject to paragraph (2) of this subsection, the Treasurer may invest or
10 reinvest unexpended or surplus money over which the Treasurer has custody [in:

11 (i) an obligation for which the United States has pledged its faith
12 and credit for the payment of the principal and interest;

13 (ii) an obligation that a federal agency or a federal instrumentality
14 has issued in accordance with an act of Congress;

15 (iii) an obligation issued and unconditionally guaranteed by a
16 supranational issuer denominated in United States dollars and eligible to be sold in the
17 United States;

18 (iv) a repurchase agreement collateralized in an amount not less
19 than 102% of the principal amount by an obligation of the United States, its agencies or
20 instrumentalities, provided the collateral is held by a custodian other than the seller
21 designated by the buyer;

22 (v) bankers' acceptances guaranteed by a financial institution with
23 a short-term debt rating in the highest letter and numerical rating by at least one
24 nationally recognized statistical rating organization as designated by either the United
25 States Securities and Exchange Commission or the Treasurer;

26 (vi) with respect to amounts treated by the Internal Revenue Service
27 as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the
28 highest quality letter and numerical rating by at least one nationally recognized statistical
29 rating organization as designated by the United States Securities and Exchange
30 Commission issued by or on behalf of this or any other state or any agency, department,
31 county, municipal or public corporation, special district, authority, or political subdivision
32 thereof, or in any fund or trust that invests only in securities of the type described in this
33 item;

1 (vii) commercial paper that has received the highest letter and
2 numerical rating by at least two nationally recognized statistical rating organizations as
3 designated by the United States Securities and Exchange Commission;

4 (viii) money market mutual funds that:

5 1. are registered with the Securities and Exchange
6 Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as
7 amended;

8 2. are operated in accordance with Rule 2A-7 of the
9 Investment Company Act of 1940, 17 C.F.R. § 270.2A-7, as amended; and

10 3. have received the highest possible rating from at least one
11 nationally recognized statistical rating organization as designated by the United States
12 Securities and Exchange Commission; and

13 (ix) any investment portfolio created under the Maryland Local
14 Government Investment Pool defined under §§ 17-301 through 17-309 of the Local
15 Government Article of the Code that is administered by the Office of the State Treasurer].

16 (2) Investments made under paragraph (1) of this subsection shall be in
17 accordance with the **LIMITATIONS FOR THE ASSET CLASSES AND** thresholds established
18 in regulations adopted under subsection [(g)] (F) of this section.

19 [(c)] (B) The Treasurer may sell, redeem, or exchange an investment or
20 reinvestment made under this section in accordance with the limitations of this section.

21 [(d)] (C) Subject to § 2-1257 of the State Government Article, the Treasurer
22 shall report by January 3 of each year to the General Assembly on investment activities for
23 unexpended or surplus money over which the Treasurer has custody which have been
24 conducted during the previous fiscal year. At a minimum, the report shall specify for
25 General Fund investments and all other investments:

26 (1) the inventory of investments with maturity dates and the book and
27 market value as of June 30;

28 (2) the net income earned;

29 (3) the percentage share of each category of investment in the portfolio; and

30 (4) any sale of investments prior to the maturity date.

31 [(e)] (D) An investment made pursuant to this section shall be made:

1 (1) with the care, skill, prudence, and diligence under the circumstances
2 then prevailing that a prudent person acting in a like capacity and familiar with such
3 matters would use in the conduct of an enterprise of a like character and with like aims;

4 (2) in a manner designed to reasonably match the anticipated cash flow of
5 the State so that sufficient funds are available to pay obligations upon proper presentation
6 for payment;

7 (3) so that a reasonable amount of cash or cash equivalents is available for
8 unanticipated cash needs;

9 (4) with due regard for minimizing risk while maximizing return;

10 (5) using competitive purchasing practices except when impractical;

11 (6) in accordance with a written investment policy;

12 (7) so that the securities and collateral may continue to be priced on a
13 market to market basis; and

14 (8) to avoid the enhancement of the personal financial position of the
15 Treasurer or any employee of the Treasurer who has responsibilities for such investments.

16 **[(f)] (E)** (1) (i) Consistent with minority business purchasing standards
17 applicable to units of State government under this article and consistent with the fiduciary
18 duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible
19 minority business enterprises for brokerage and investment management services under
20 this section.

21 (ii) For purposes of this subsection, brokerage and investment
22 management services shall include services relating to all allocated asset classes [as
23 described in] **AUTHORIZED IN THE REGULATIONS ADOPTED UNDER** subsection **[(b)] (F)**
24 of this section.

25 (2) (i) To assist the Treasurer in achieving the goal described under
26 paragraph (1) of this subsection, the Treasurer shall undertake measures to remove any
27 barriers that limit full participation by minority business enterprises in brokerage and
28 investment management services opportunities afforded under this section.

29 (ii) The measures undertaken by the Treasurer shall include the use
30 of a wide variety of media, including the Treasurer's website, to provide notice to a broad
31 and varied range of potential providers about the brokerage and investment management
32 services opportunities afforded by the Treasurer.

33 (3) In conjunction with the Governor's Office of Small, Minority, and
34 Women Business Affairs, the Treasurer shall develop guidelines to assist in identifying and
35 evaluating qualified minority business enterprises in order to help the Treasurer achieve

1 the objective for greater use of minority business enterprises for brokerage and investment
2 management services under this section.

3 (4) On or before September 1 each year, the Treasurer shall submit a report
4 to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to §
5 2-1257 of the State Government Article, the General Assembly on:

6 (i) the identity of the minority business enterprise brokerage and
7 investment management services firms used by the Treasurer in the immediately
8 preceding fiscal year;

9 (ii) the percentage and dollar value of the assets under the custody
10 of the Treasurer that are under the investment control of minority business enterprise
11 brokerage and investment management services firms for each allocated asset class; and

12 (iii) the measures the Treasurer undertook in the immediately
13 preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

14 ~~[(g)]~~ (F) (1) The Treasurer shall adopt regulations that establish a State
15 investment policy.

16 (2) The State investment policy shall specify:

17 (I) **ASSET CLASSES IN WHICH THE TREASURER MAY INVEST OR**
18 **REINVEST CERTAIN UNEXPENDED OR SURPLUS FUNDS; AND**

19 (II) thresholds for the maximum investment in each asset class
20 authorized under ~~[this section]~~ **ITEM (I) OF THIS PARAGRAPH.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (a) Notwithstanding any other provision of law, the Treasurer may retain
23 investments made prior to the effective date of this Act until the investments have reached
24 their respective maturity dates.

25 (b) Notwithstanding the changes to § 6-222 of the State Finance and
26 Procurement Article as enacted by Section 1 of this Act, the Treasurer may invest or
27 reinvest surplus money in the investments authorized under the former § 6-222 of the
28 State Finance and Procurement Article as in effect immediately preceding the effective date
29 of this Act until the effective date of the regulations amending the State investment policy
30 are adopted by the Treasurer in accordance with Section 3 of this Act.

31 (c) Notwithstanding the changes to § 6-222 of the State Finance and
32 Procurement Article as enacted by Section 1 of this Act, the governmental entities described
33 in § 17-203 of the Local Government Article may invest or reinvest surplus money in the
34 investments authorized under the former § 6-222 of the State Finance and Procurement

1 Article as in effect immediately preceding the effective date of this Act until the effective
 2 date of the regulations amending the local government investment guidelines are adopted
 3 by the Treasurer in accordance with Section 3 of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Treasurer shall:

5 (1) on or before December 1, 2024, adopt ~~the~~:

6 (i) regulations amending the State investment policy in accordance
 7 with § 6-222 of the State Finance and Procurement Article as enacted by Section 1 of this
 8 Act ~~required under Section 1 of this Act~~; and

9 (ii) regulations amending the local government investment
 10 guidelines in accordance with § 17-204 of the Local Government Article as enacted by
 11 Section 1 of this Act; and

12 (2) following the adoption of regulations amending the local government
 13 investment guidelines as required under ~~Section 1 of this Act~~ item (1) of this section:

14 (i) notify in writing the governing body of each ~~local~~ governmental
 15 ~~unit~~ entity required to have a local investment policy under § 17-205 of the Local
 16 Government Article of the ~~updated State investment policy~~; amended local government
 17 investment guidelines; and

18 (ii) provide the ~~local government~~ governmental entity with an
 19 opportunity to review, revise, and report any changes in the local investment policies to the
 20 Treasurer, as appropriate.

21 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
 22 measure, is necessary for the immediate preservation of the public health or safety, has
 23 been passed by a yea and nay vote supported by three-fifths of all the members elected to
 24 each of the two Houses of the General Assembly, and shall take effect from the date it is
 25 enacted.

Approved:

 Governor.

 President of the Senate.

 Speaker of the House of Delegates.