

SENATE BILL 606

P1, P2, P3

8lr2059

By: **Senators Pugh, Jones, Conway, Currie, Exum, Frosh, Gladden, Kelley, King, Madaleno, McFadden, Middleton, Muse, and Raskin**

Introduced and read first time: February 1, 2008

Assigned to: Finance and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Brokerage and Investment Banking Services – Use of**
3 **Minority Business Enterprises**

4 FOR the purpose of requiring certain State entities responsible for the management of
5 certain funds to attempt to use to a certain extent minority business enterprise
6 brokerage and investment banking firms; requiring the entities to undertake
7 steps to remove any barriers that limit participation by minority business
8 enterprises in certain brokerage and investment banking opportunities;
9 requiring the entities to adopt certain guidelines; requiring the entities to
10 submit a certain annual report to certain persons on certain matters relating to
11 minority business enterprise brokerage and investment banking firms; and
12 generally relating to the use of minority business enterprise brokerage and
13 investment banking firms for certain purposes by certain State entities.

14 BY repealing and reenacting, without amendments,
15 Article 95 – Treasurer
16 Section 22G(a), (b), (h), and (j)
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Insurance
21 Section 20–303
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2007 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Labor and Employment
26 Section 10–122
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–222
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–116
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article 95 – Treasurer

22G.

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

1 (b) (1) The Treasurer shall invest moneys in the Local Government
2 Investment Pool in accordance with the provisions set forth in §§ 6–222 and 6–223 of
3 the State Finance and Procurement Article.

4 (2) Notwithstanding any provisions of law to the contrary or any
5 limitation or restriction contained in any other law, the Treasurer may invest, redeem,
6 sell, exchange, and reinvest moneys in the Local Government Investment Pool in
7 bankers' acceptances guaranteed by banking institutions.

8 (h) (1) Subject to the objectives and requirements of this section, the
9 Treasurer shall formulate procedures for the investment and reinvestment of funds in
10 the Investment Pool and the acquisition, retention, management, and disposition of
11 investments of the Investment Pool.

12 (2) (i) The Treasurer may enter into a contractual agreement with
13 a qualified Maryland fiscal agent and may compensate the agent for services rendered.

14 (ii) The agent may perform investment and administrative
15 services which the Treasurer is authorized by this section to perform.

16 (j) For the purposes of this section, "local government" includes all of the
17 legal entities, bodies, and agencies set out in § 22 of this article and local government
18 insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not
19 include the State and agencies of the State.

20 **Article – Insurance**

21 20–303.

22 (a) (1) A financial management committee of the Fund shall manage and
23 invest all moneys collected by or for the Fund through premiums, earnings from
24 investments, or from other sources.

25 (2) The financial management committee consists of the Executive
26 Director and two members of the Board of Trustees whom the Board of Trustees
27 chooses.

28 (3) Of the two members from the Board of Trustees:

29 (i) one shall be chosen from the members appointed by the
30 Governor; and

31 (ii) one shall be chosen from the members appointed by the
32 Association.

33 (b) (1) Whenever the amount of moneys in the Fund exceeds the amount
34 that the Executive Director believes is likely to be required immediately, the financial

1 management committee may manage the excess as it considers appropriate and invest
2 the excess in investments legal for casualty insurers under §§ 5–601 through 5–609 of
3 this article.

4 (2) If use of the excess becomes necessary or expedient, the financial
5 management committee may collect, sell, or otherwise realize on the investment and
6 any accrued interest.

7 (C) (1) CONSISTENT WITH MINORITY BUSINESS PURCHASING
8 STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE
9 FINANCE AND PROCUREMENT ARTICLE, THE FINANCIAL MANAGEMENT
10 COMMITTEE SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE
11 MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT
12 BANKING SERVICES TO THE COMMITTEE.

13 (2) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER
14 PARAGRAPH (1) OF THIS SUBSECTION, THE FINANCIAL MANAGEMENT
15 COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT
16 LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN
17 BROKERAGE AND INVESTMENT BANKING SERVICE OPPORTUNITIES AFFORDED
18 BY THE FUND.

19 (3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF
20 BUSINESS DIVERSITY, THE FINANCIAL MANAGEMENT COMMITTEE SHALL
21 DEVELOP GUIDELINES TO ASSIST THE COMMITTEE IN ACHIEVING THE
22 OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR
23 BROKERAGE AND INVESTMENT BANKING SERVICES.

24 (4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE FINANCIAL
25 MANAGEMENT COMMITTEE SHALL SUBMIT A REPORT TO THE GOVERNOR'S
26 OFFICE OF BUSINESS DIVERSITY AND, SUBJECT TO § 2–1246 OF THE STATE
27 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

28 (I) THE IDENTITY OF THE MINORITY BUSINESS
29 ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS USED BY THE
30 COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

31 (II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND
32 ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS
33 ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS; AND

34 (III) ACTIONS THE COMMITTEE UNDERTOOK IN THE
35 IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF MINORITY
36 BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS,
37 INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT

BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.

Article – Labor and Employment

10–122.

(A) If, at any time, the amount of money in the Fund exceeds the amount that the Board considers necessary for immediate use, the excess shall be invested in any investment authorized under Title 5, Subtitle 6 of the Insurance Article for insurance companies.

(B) (1) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT BANKING SERVICES TO THE BOARD.

(2) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT BANKING SERVICE OPPORTUNITIES AFFORDED BY THE FUND.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF BUSINESS DIVERSITY, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN ACHIEVING THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT BANKING SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF BUSINESS DIVERSITY AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS; AND

(III) ACTIONS THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS,

1 INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT
2 BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND
3 INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.

4 **Article – State Finance and Procurement**

5 6–222.

6 (a) The Treasurer may invest or reinvest unexpended or surplus money over
7 which the Treasurer has custody in:

8 (1) an obligation for which the United States has pledged its faith and
9 credit for the payment of the principal and interest;

10 (2) an obligation that a federal agency or a federal instrumentality has
11 issued in accordance with an act of Congress;

12 (3) a repurchase agreement collateralized in an amount not less than
13 102% of the principal amount by an obligation of the United States, its agencies or
14 instrumentalities, provided the collateral is held by a custodian other than the seller
15 designated by the buyer;

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

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

28 (6) commercial paper that has received the highest letter and
29 numerical rating by at least two nationally recognized statistical rating organizations
30 as designated by the United States Securities and Exchange Commission, provided
31 that such commercial paper may not exceed 10% of the total investments made by the
32 Treasurer under this subsection;

33 (7) money market mutual funds that:

34 (i) are registered with the Securities and Exchange
35 Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., as
36 amended;

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

3 (iii) have received the highest possible rating from at least one
4 nationally recognized statistical rating organization as designated by the United
5 States Securities and Exchange Commission; and

6 (8) any investment portfolio created under the Maryland Local
7 Government Investment Pool defined under Article 95, § 22G of the Code that is
8 administered by the Office of the State Treasurer.

9 (b) The Treasurer may sell, redeem, or exchange an investment or
10 reinvestment made under this section in accordance with the limitations of this
11 section.

12 (c) Subject to § 2-1246 of the State Government Article, the Treasurer shall
13 report by January 3 of each year to the General Assembly on investment activities for
14 unexpended or surplus money over which the Treasurer has custody which have been
15 conducted during the previous fiscal year. At a minimum, the report shall specify for
16 General Fund investments and all other investments:

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

19 (2) the net income earned;

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

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

23 (d) An investment made pursuant to this section shall be made:

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

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

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

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

(5) using competitive purchasing practices except when impractical;

(6) in accordance with a written investment policy;

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

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

(E) (1) NOTWITHSTANDING SUBSECTIONS (A) THROUGH (D) OF THIS SECTION, CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THIS ARTICLE, THE TREASURER SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT BANKING SERVICES UNDER THIS SECTION.

(2) TO ASSIST THE TREASURER IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TREASURER SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT BANKING SERVICE OPPORTUNITIES AFFORDED UNDER THIS SECTION.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF BUSINESS DIVERSITY, THE TREASURER SHALL DEVELOP GUIDELINES TO ASSIST IN ACHIEVING THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT BANKING SERVICES UNDER THIS SECTION.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE TREASURER SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF BUSINESS DIVERSITY AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS USED BY THE TREASURER IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS UNDER THE CUSTODY OF THE TREASURER THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS; AND

1 (III) ACTIONS THE TREASURER UNDERTOOK IN THE
2 IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED
3 MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING
4 FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND
5 INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE
6 BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.

7 **Article – State Personnel and Pensions**

8 21–116.

9 (a) By resolution, the Board of Trustees shall specify the powers of the
10 Investment Committee.

11 (b) The Investment Committee shall advise the Board of Trustees and make
12 recommendations on:

13 (1) the investment programs;

14 (2) compliance of the investment programs with the policies of the
15 Board of Trustees; and

16 (3) bonding for employees of the State Retirement Agency in the form
17 and amount required by law.

18 (c) (1) **[The] SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE**
19 Board of Trustees shall adopt an investment policy manual that details:

20 (i) the functions of the Investment Division of the State
21 Retirement Agency;

22 (ii) the goals and objectives of the several investment programs;
23 and

24 (iii) the policies that govern the selection and retention of
25 investments.

26 (2) The Investment Committee shall:

27 (i) prepare and maintain the investment policy manual; and

28 (ii) submit the investment policy manual, and any subsequent
29 amendments to the manual, to the Board of Trustees for approval.

30 **(D) (1) CONSISTENT WITH MINORITY BUSINESS PURCHASING**
31 **STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE**
32 **FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF TRUSTEES SHALL**

1 **DIRECT THE INVESTMENT COMMITTEE TO ATTEMPT TO USE TO THE GREATEST**
2 **EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE**
3 **AND INVESTMENT BANKING SERVICES TO THE BOARD.**

4 **(2) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER**
5 **PARAGRAPH (1) OF THIS SUBSECTION, THE INVESTMENT COMMITTEE SHALL**
6 **UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL**
7 **PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND**
8 **INVESTMENT BANKING SERVICE OPPORTUNITIES AFFORDED UNDER THIS**
9 **TITLE.**

10 **(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF**
11 **BUSINESS DIVERSITY AND THE INVESTMENT COMMITTEE, THE BOARD OF**
12 **TRUSTEES SHALL DEVELOP GUIDELINES TO ASSIST THE INVESTMENT**
13 **COMMITTEE IN ACHIEVING THE OBJECTIVE FOR GREATER USE OF MINORITY**
14 **BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT BANKING**
15 **SERVICES.**

16 **(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE INVESTMENT**
17 **COMMITTEE SHALL SUBMIT A REPORT TO THE BOARD OF TRUSTEES, THE**
18 **GOVERNOR'S OFFICE OF BUSINESS DIVERSITY AND, SUBJECT TO § 2-1246 OF**
19 **THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

20 **(I) THE IDENTITY OF THE MINORITY BUSINESS**
21 **ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS USED BY THE**
22 **INVESTMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;**

23 **(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS**
24 **THAT ARE UNDER THE CONTROL OF THE INVESTMENT DIVISION THAT ARE**
25 **UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE**
26 **BROKERAGE AND INVESTMENT BANKING FIRMS; AND**

27 **(III) ACTIONS THE INVESTMENT COMMITTEE UNDERTOOK IN**
28 **THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF**
29 **MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING**
30 **FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND**
31 **INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE**
32 **BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.**

33 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
34 **October 1, 2008.**