

HOUSE BILL 811

L6, P1

9lr2279
CF SB 458

By: **Delegate Heller (Chair, Joint Committee on the Management of Public Funds) and Delegates Elmore, Howard, and Levy**

Introduced and read first time: February 11, 2009

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2009

CHAPTER _____

1 AN ACT concerning

2 **State Treasurer – Local Government Units – Local Debt Policies**

3 FOR the purpose of requiring a certain report of the financial officer of a political
4 subdivision to be submitted to the State Treasurer; requiring certain additional
5 information to be included in the report; requiring certain financial officers to
6 submit a certain updated report on request of the State Treasurer; repealing a
7 requirement that certain local government investment guidelines include a
8 certain form; requiring each local government unit to adopt a certain local debt
9 policy; requiring a copy of the policy to be mailed to the State Treasurer;
10 requiring the State Treasurer to send a certain notice if the State Treasurer
11 makes certain findings regarding the policy; requiring a certain local ~~governing~~
12 ~~body~~ government unit to revise the policy under certain circumstances;
13 requiring a local ~~governing body~~ government unit to submit a certain revised
14 policy under certain circumstances; requiring the State Treasurer to contact a
15 certain local government if certain requirements are not met; requiring certain
16 financial officers to provide certain information requested by the State
17 Treasurer; altering a certain penalty provision; altering certain definitions;
18 defining certain terms; repealing obsolete language; making stylistic changes;
19 making technical corrections; and generally relating to local debt policies of
20 local government units.

21 BY repealing and reenacting, with amendments,
22 Article 24 – Political Subdivisions – Miscellaneous Provisions
23 Section 2–101
24 Annotated Code of Maryland

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 (2005 Replacement Volume and 2008 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article 95 – Treasurer
4 Section 22F
5 Annotated Code of Maryland
6 (2003 Replacement Volume and 2008 Supplement)

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

9 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

10 2–101.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) “Department” means the Department of Legislative Services.

13 (3) “Financial officer” means the treasurer or other financial officer of
14 a political subdivision.

15 (4) “Political subdivision” includes:

16 (i) A county;

17 (ii) A municipal corporation in the State;

18 (iii) A special taxing district in the State; and

19 (iv) A public corporation of the State.

20 (b) (1) Except as provided in paragraph (2) of this subsection, if a political
21 subdivision is authorized to incur debt to be redeemed from a fee, charge, or the
22 proceeds of a levy, then within 120 days after the end of the fiscal year of the political
23 subdivision, its financial officer shall submit **TO THE DEPARTMENT AND STATE**
24 **TREASURER**, subject to § 2–1246 of the State Government Article, [to the
25 Department] a comprehensive report on the financial condition of the political
26 subdivision as of the end of that fiscal year.

27 (2) If a political subdivision subject to the provisions of paragraph (1)
28 of this subsection has a population of more than 400,000, the report required under
29 paragraph (1) of this subsection may be submitted within 180 days after the end of the
30 fiscal year of the political subdivision.

31 (c) A report under this section shall be on the form that the Department
32 provides.

1 (d) A report under this section shall include the affidavit of the financial
2 officer and all of the following information that applies to the political subdivision:

3 (1) The assessed valuation of taxable and tangible property in the
4 political subdivision;

5 (2) The total indebtedness of the political subdivision;

6 (3) The following categories of the total indebtedness:

7 (i) Bond indebtedness that is redeemable from the proceeds of
8 general and ad valorem taxes;

9 (ii) Temporary or floating indebtedness;

10 (iii) Obligations that are incurred in anticipation of tax
11 collection;

12 (iv) Current bills payable;

13 (v) Contingent liability that results from the guaranty of an
14 obligation of another political subdivision; and

15 (vi) Self-liquidating bond indebtedness;

16 (4) As to self-liquidating bond indebtedness:

17 (i) The amount of indebtedness for each project; and

18 (ii) The source of the revenue for its liquidation;

19 (5) As to each sinking fund for retirement of obligations:

20 (i) Each obligation for which the fund is established;

21 (ii) The amount of the fund; and

22 (iii) The manner in which money in the fund is invested;

23 (6) As to the tax levy for the fiscal year for which the report is made:

24 (i) The amount of the levy imposed;

25 (ii) The amount of the levy collected; and

26 (iii) Separate items for:

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1 1. The amount of any special assessment levied; and

2 2. The amount of that assessment collected;

3 (7) As to the tax levy for each of the 3 fiscal years immediately
4 preceding the fiscal year for which the report is made:

5 (i) The amount of the levy imposed; and

6 (ii) The amount of uncollected taxes;

7 (8) As to the population of the political subdivision:

8 (i) The population in the most recent federal census; and

9 (ii) Any official or unofficial population estimates for the fiscal
10 year for which the report is made;

11 (9) A copy of the most recent actuarial report on the pension system of
12 the political subdivision, unless it is a county or municipal corporation and a member
13 of the State pension system; [and]

14 (10) **AS TO ALL CATEGORIES OF INDEBTEDNESS:**

15 (I) **VARIABLE INTEREST RATE DEBT INSTRUMENTS;**

16 (II) **INTEREST RATE EXCHANGE AGREEMENTS OR SWAPS;**

17 **AND**

18 (III) **OTHER DERIVATIVES, INCLUDING FUTURES AND**
19 **OPTIONS; AND**

20 (11) Any other information about the financial affairs of the political
21 subdivision that the Department finds pertinent or appropriate and necessary to show
22 accurately the financial condition of the political subdivision.

23 (e) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL OFFICER**
24 **SHALL SUBMIT AN UPDATED REPORT ON THE INDEBTEDNESS OF THE POLITICAL**
25 **SUBDIVISION AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.**

26 (F) (1) A financial officer may not fail **TO:**

27 (i) [To submit] **SUBMIT** a report under this section; or

28 (ii) [Within 15 days after receiving notice that the Department
29 finds the report inadequate, to resubmit] **RESUBMIT** a report that meets the

1 requirements of this section **WITHIN 15 DAYS AFTER RECEIVING NOTICE THAT THE**
 2 **DEPARTMENT FINDS THE REPORT INADEQUATE.**

3 (2) ~~A~~ **IF A** financial officer ~~who~~ violates any provision of this
 4 subsection, **THE POLITICAL SUBDIVISION EMPLOYING THE FINANCIAL OFFICER** is
 5 ~~personally~~ liable to the State for a penalty of \$10 for each day or part of a day for
 6 which the report is overdue.

7 **Article 95 – Treasurer**

8 22F.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) “Chief executive” means:

11 (i) For Baltimore City, the Mayor;

12 (ii) For a nonhome rule county, the chairman or president of the
 13 board of county commissioners;

14 (iii) For a charter county, the elected county executive or, if the
 15 county does not have an elected executive, the chairman or president of the county
 16 council;

17 (iv) For a code home rule county, the chairman or president of
 18 the board of county commissioners;

19 (v) For a community college, a designee of the board of trustees;

20 (vi) For a municipal corporation, the mayor or, if the municipal
 21 corporation does not have a mayor, the chairman or president of the municipal
 22 governing body; [and]

23 (vii) For the Washington Suburban Sanitary Commission, the
 24 Chairman of the Commission;

25 **(VIII) FOR A PUBLIC CORPORATION, THE CHIEF EXECUTIVE**
 26 **OFFICER; AND**

27 **(IX) FOR AN AUTHORITY, THE EXECUTIVE DIRECTOR OR**
 28 **EXECUTIVE SECRETARY.**

29 (3) (i) “Community college” includes a regional community college
 30 established under Title 16, Subtitle 2 of the Education Article.

1 (ii) "Community college" does not include the Baltimore City
2 Community College.

3 (4) **"FINANCIAL OFFICER" MEANS THE TREASURER OR OTHER**
4 **FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT WHO IS RESPONSIBLE FOR**
5 **THE INVESTMENT OF PUBLIC FUNDS OR THE ISSUANCE AND MANAGEMENT OF**
6 **DEBT OF THE LOCAL GOVERNMENT UNIT.**

7 (5) "Governing body" means:

8 (i) For Baltimore City, the ~~Mayor and City Council of Baltimore~~
9 **BALTIMORE CITY BOARD OF ESTIMATES**;

10 (ii) For a nonhome rule county, the county commissioners;

11 (iii) For a charter county, as provided by local law, the county
12 council or the county executive and the county council;

13 (iv) For a code county, the county commissioners;

14 (v) For a community college, the board of trustees;

15 (vi) For a municipal corporation, the body provided by the
16 municipal charter; [and]

17 (vii) For the Washington Suburban Sanitary Commission, the
18 Commission;

19 (VIII) **FOR A PUBLIC CORPORATION, THE BOARD OF**
20 **DIRECTORS; AND**

21 (IX) **FOR AN AUTHORITY, THE BOARD OF THE AUTHORITY.**

22 [(5) "Investment manager" means the director of finance, treasurer, or
23 other official of a local government unit who is responsible for the investment of public
24 funds of the local government unit.]

25 (6) "Local government unit" means:

26 (i) Baltimore City;

27 (ii) A community college;

28 (iii) A county;

29 (iv) A municipal corporation; [or]

1 (v) The Washington Suburban Sanitary Commission;

2 (VI) A PUBLIC CORPORATION AUTHORIZED TO ISSUE DEBT;

3 OR

4 (VII) AN AUTHORITY OF THE STATE AUTHORIZED TO ISSUE

5 DEBT.

6 (7) (i) "Public funds" means any revenue held by a local
7 government unit as part of:

8 1. A general fund;

9 2. A special fund;

10 3. A capital improvement fund;

11 4. A debt service fund;

12 5. An enterprise fund;

13 6. An internal service fund; or

14 7. Except as otherwise provided in subparagraph (ii) of
15 this paragraph, any other account of the local government unit.

16 (ii) "Public funds" does not include revenues held as part of a
17 pension fund, other postemployment benefits fund, or trust fund account.

18 (b) This section and the local government investment guidelines adopted by
19 the State Treasurer under this section supersede any local law, including any charter
20 provision, or any other public general law to the extent of any conflict.

21 (c) (1) (i) After consulting with local government officials, the State
22 Treasurer shall adopt by regulation local government investment guidelines to govern
23 the investment of public funds by local government units in a manner that will
24 facilitate sound cash management while protecting the public and assuring that a
25 local government unit has access to its public funds as required.

26 (ii) The State Treasurer's local government investment
27 guidelines shall:

28 1. State the types of investments in which public funds
29 may be invested;

1 2. Include guidance for the prudent investment of public
2 funds based on cash flow projections, income, liquidity, investment ratings, and risk;

3 3. Require that investments by a board of education and
4 a board of library trustees are in compliance with the local investment policy of the
5 respective county; and

6 4. Prohibit borrowing of funds for the express purpose of
7 investing those funds.

8 [(iii) The State Treasurer's local government investment
9 guidelines shall include a form that local government units shall use to comply with
10 subsection (e) of this section. The form shall be adaptable to the investment needs of
11 each local government unit and shall require sufficient detail to identify all pertinent
12 aspects of an investment portfolio, including any realized losses. The form also shall
13 require that each county include investments managed in accounts for or by the board
14 of education and the board of library trustees of the county. The form shall provide for
15 certification as required under subsection (e) of this section.]

16 (2) (i) [On or before September 1, 1995, the] **THE** governing body
17 of each local government unit shall adopt by resolution a local investment policy that:

18 1. Is consistent with the local government investment
19 guidelines adopted by the State Treasurer; and

20 2. Meets the individual needs of the local government
21 unit.

22 (ii) Promptly after the adoption of a local investment policy, the
23 local government unit shall mail a certified copy to the State Treasurer.

24 (iii) If the State Treasurer determines that the local investment
25 policy is not consistent with the local government investment guidelines adopted by
26 the State Treasurer, the State Treasurer shall notify the local government unit and
27 the governing body of the local government unit shall prepare and submit a revised
28 local investment policy that is consistent with the State Treasurer's guidelines.

29 (3) If the governing body of a local government unit amends its local
30 investment policy, the local government shall submit its new policy to the State
31 Treasurer consistent with the provisions of paragraph (2) of this subsection.

32 [(d)] (4) [An investment manager] **A FINANCIAL OFFICIAL** may not invest
33 public funds of the local government unit in a manner inconsistent with the local
34 investment policy.

1 (D) (1) (I) ON OR BEFORE SEPTEMBER 1, 2009, ~~THE GOVERNING~~
2 ~~BODY OF~~ EACH LOCAL GOVERNMENT UNIT SHALL ADOPT BY RESOLUTION,
3 MOTION, OR ORDINANCE A LOCAL DEBT POLICY THAT:

4 1. IS CONSISTENT WITH THE MARYLAND
5 CONSTITUTION, ARTICLES 23A, 24, AND 31 AND ALL OTHER APPLICABLE
6 STATUTES, CHARTERS, AND LOCAL LAWS; AND

7 2. MEETS THE INDIVIDUAL NEEDS OF THE LOCAL
8 GOVERNMENT UNIT.

9 (II) PROMPTLY AFTER THE ADOPTION OF A LOCAL DEBT
10 POLICY, THE LOCAL GOVERNMENT UNIT SHALL MAIL A CERTIFIED COPY TO THE
11 STATE TREASURER.

12 (III) IF THE STATE TREASURER DETERMINES THAT THE
13 LOCAL DEBT POLICY IS NOT CONSISTENT WITH THE MARYLAND CONSTITUTION,
14 ARTICLES 23A, 24, AND 31 OR OTHER APPLICABLE STATUTES, CHARTERS, OR
15 LOCAL LAW:

16 1. THE STATE TREASURER SHALL NOTIFY THE
17 LOCAL GOVERNMENT UNIT; AND

18 2. ~~THE GOVERNING BODY OF THE~~ LOCAL
19 GOVERNMENT UNIT SHALL PREPARE AND SUBMIT A REVISED LOCAL DEBT
20 POLICY.

21 (2) IF THE ~~GOVERNING BODY OF A~~ LOCAL GOVERNMENT UNIT
22 AMENDS ITS LOCAL DEBT POLICY, THE LOCAL GOVERNMENT SHALL SUBMIT ITS
23 REVISED POLICY TO THE STATE TREASURER CONSISTENT WITH THE
24 PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

25 (e) [(1) This subsection only applies to a local government unit whose total
26 annual expenditures for total operations, as reported in the most recent publication by
27 the Department of Legislative Services entitled "Local Government Finances in
28 Maryland", exceed \$1,000,000.

29 (2) (i) On or before January 15 and July 15 of each year, beginning
30 October 1995 and continuing through October 1999, the investment manager shall
31 complete the form adopted by the State Treasurer to report all investments of the local
32 government unit on the close of the final day of the immediately preceding half of the
33 fiscal year.

1 (ii) The investment manager shall certify the accuracy of the
2 form and that the investments reported on the form are in compliance with the local
3 investment policy and promptly submit the form to the chief executive.

4 (3) (i) On or before January 30 and July 30 of each year, beginning
5 October 1995 and continuing through October 1999, the chief executive shall review
6 the form received from the investment manager.

7 (ii) The chief executive shall certify the date on which the form
8 was received and that the chief executive has reviewed the form to verify that the
9 information complies with the local investment policy and promptly mail a copy of the
10 completed certified form to the State Treasurer.

11 (4) The State Treasurer shall review the forms to verify that the chief
12 executive, a governing body, or an independent auditor engaged by the chief executive
13 or a governing body has certified their compliance with this section and the local
14 government investment guidelines.

15 (f)] (1) The State Treasurer shall contact the local government unit to
16 seek compliance if a local government unit fails to:

17 (i) Adopt a local investment policy that is consistent with the
18 local government investment guidelines adopted by the State Treasurer; or

19 (ii) [Comply with the reporting requirements under subsection
20 (e) of this section] **ADOPT A LOCAL DEBT POLICY IN ACCORDANCE WITH (D)(1)(I)**
21 **OF THIS SECTION.**

22 (2) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL**
23 **OFFICER SHALL PROVIDE TO THE STATE TREASURER, IN THE FORMAT AND**
24 **TIME FRAME REQUESTED:**

25 (I) **A REPORT OF THE LOCAL GOVERNMENT INVESTMENT**
26 **PORTFOLIO; OR**

27 (II) **A REPORT OF THE LOCAL GOVERNMENT DEBT**
28 **PORTFOLIO IN THE FORMAT REQUIRED UNDER ARTICLE 24, § 2-101 OF THE**
29 **CODE.**

30 (3) If the local government unit [continues to fail] **FAILS** to comply
31 with this subsection, the State Treasurer shall notify in writing the Joint Committee
32 on the Management of Public Funds.

33 [(3)] (4) The Joint Committee on the Management of Public Funds
34 may request the Attorney General to seek judicial enforcement against the local
35 government unit.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.