

SENATE BILL 458

L6, P1

(9lr2277)

ENROLLED BILL

—Budget and Taxation / Appropriations—

Introduced by **Senator Jones (Chair, Joint Committee on the Management of Public Funds) and Senators Currie, Forehand, and Haines**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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

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.

Italics indicate opposite chamber / conference committee amendments.



1 certain local government if certain requirements are not met; requiring certain
 2 financial officers to provide certain information requested by the State
 3 Treasurer; altering a certain penalty provision; altering certain definitions;
 4 defining certain terms; repealing obsolete language; making stylistic changes;
 5 making technical corrections; and generally relating to local debt policies of
 6 local government units.

7 BY repealing and reenacting, with amendments,
 8 Article 24 – Political Subdivisions – Miscellaneous Provisions
 9 Section 2–101
 10 Annotated Code of Maryland
 11 (2005 Replacement Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article 95 – Treasurer
 14 Section 22F
 15 Annotated Code of Maryland
 16 (2003 Replacement Volume and 2008 Supplement)

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

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

20 2–101.

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

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

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

25 (4) “Political subdivision” includes:

26 (i) A county;

27 (ii) A municipal corporation in the State;

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

29 (iv) A public corporation of the State.

30 (b) (1) Except as provided in paragraph (2) of this subsection, if a political
 31 subdivision is authorized to incur debt to be redeemed from a fee, charge, or the
 32 proceeds of a levy, then within 120 days after the end of the fiscal year of the political
 33 subdivision, its financial officer shall submit **TO THE DEPARTMENT AND STATE**

1 **TREASURER**, subject to § 2-1246 of the State Government Article, [to the
2 Department] a comprehensive report on the financial condition of the political
3 subdivision as of the end of that fiscal year.

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

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

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

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

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

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

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

18 (ii) Temporary or floating indebtedness;

19 (iii) Obligations that are incurred in anticipation of tax
20 collection;

21 (iv) Current bills payable;

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

24 (vi) Self-liquidating bond indebtedness;

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

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

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

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

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

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- 1 (ii) The amount of the fund; and
- 2 (iii) The manner in which money in the fund is invested;
- 3 (6) As to the tax levy for the fiscal year for which the report is made:
- 4 (i) The amount of the levy imposed;
- 5 (ii) The amount of the levy collected; and
- 6 (iii) Separate items for:
- 7 1. The amount of any special assessment levied; and
- 8 2. The amount of that assessment collected;
- 9 (7) As to the tax levy for each of the 3 fiscal years immediately
- 10 preceding the fiscal year for which the report is made:
- 11 (i) The amount of the levy imposed; and
- 12 (ii) The amount of uncollected taxes;
- 13 (8) As to the population of the political subdivision:
- 14 (i) The population in the most recent federal census; and
- 15 (ii) Any official or unofficial population estimates for the fiscal
- 16 year for which the report is made;
- 17 (9) A copy of the most recent actuarial report on the pension system of
- 18 the political subdivision, unless it is a county or municipal corporation and a member
- 19 of the State pension system; [and]
- 20 (10) **AS TO ALL CATEGORIES OF INDEBTEDNESS:**
- 21 **(I) VARIABLE INTEREST RATE DEBT INSTRUMENTS;**
- 22 **(II) INTEREST RATE EXCHANGE AGREEMENTS OR SWAPS;**
- 23 **AND**
- 24 **(III) OTHER DERIVATIVES, INCLUDING FUTURES AND**
- 25 **OPTIONS; AND**

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

4 (vii) For the Washington Suburban Sanitary Commission, the
5 Chairman of the Commission;

6 (VIII) FOR A PUBLIC CORPORATION, THE CHIEF EXECUTIVE
7 OFFICER; AND

8 (IX) FOR AN AUTHORITY, THE EXECUTIVE DIRECTOR OR
9 EXECUTIVE SECRETARY.

10 (3) (i) "Community college" includes a regional community college
11 established under Title 16, Subtitle 2 of the Education Article.

12 (ii) "Community college" does not include the Baltimore City
13 Community College.

14 (4) "FINANCIAL OFFICER" MEANS THE TREASURER OR OTHER
15 FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT WHO IS RESPONSIBLE FOR
16 THE INVESTMENT OF PUBLIC FUNDS OR THE ISSUANCE AND MANAGEMENT OF
17 DEBT OF THE LOCAL GOVERNMENT UNIT.

18 (5) "Governing body" means:

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

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

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

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

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

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

28 (vii) For the Washington Suburban Sanitary Commission, the
29 Commission;

1 **(VIII) FOR A PUBLIC CORPORATION, THE BOARD OF**
2 **DIRECTORS; AND**

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

4 [(5) “Investment manager” means the director of finance, treasurer, or
5 other official of a local government unit who is responsible for the investment of public
6 funds of the local government unit.]

7 (6) “Local government unit” means:

8 (i) Baltimore City;

9 (ii) A community college;

10 (iii) A county;

11 (iv) A municipal corporation; [or]

12 (v) The Washington Suburban Sanitary Commission;

13 **(VI) A PUBLIC CORPORATION AUTHORIZED TO ISSUE DEBT;**
14 **OR**

15 **(VII) AN AUTHORITY OF THE STATE AUTHORIZED TO ISSUE**
16 **DEBT.**

17 (7) (i) “Public funds” means any revenue held by a local
18 government unit as part of:

19 1. A general fund;

20 2. A special fund;

21 3. A capital improvement fund;

22 4. A debt service fund;

23 5. An enterprise fund;

24 6. An internal service fund; or

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

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

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

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

11 (ii) The State Treasurer's local government investment
12 guidelines shall:

13 1. State the types of investments in which public funds
14 may be invested;

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

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

20 4. Prohibit borrowing of funds for the express purpose of
21 investing those funds.

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

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

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

34 2. Meets the individual needs of the local government
35 unit.

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

3 (iii) If the State Treasurer determines that the local investment
4 policy is not consistent with the local government investment guidelines adopted by
5 the State Treasurer, the State Treasurer shall notify the local government unit and
6 the governing body of the local government unit shall prepare and submit a revised
7 local investment policy that is consistent with the State Treasurer's guidelines.

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

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

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

17 **1. IS CONSISTENT WITH THE MARYLAND**
18 **CONSTITUTION, ARTICLES 23A, 24, AND 31 AND ALL OTHER APPLICABLE**
19 **STATUTES, CHARTERS, AND LOCAL LAWS; AND**

20 **2. MEETS THE INDIVIDUAL NEEDS OF THE LOCAL**
21 **GOVERNMENT UNIT.**

22 **(II) PROMPTLY AFTER THE ADOPTION OF A LOCAL DEBT**
23 **POLICY, THE LOCAL GOVERNMENT UNIT SHALL MAIL A CERTIFIED COPY TO THE**
24 **STATE TREASURER.**

25 **(III) IF THE STATE TREASURER DETERMINES THAT THE**
26 **LOCAL DEBT POLICY IS NOT CONSISTENT WITH THE MARYLAND CONSTITUTION,**
27 **ARTICLES 23A, 24, AND 31 OR OTHER APPLICABLE STATUTES, CHARTERS, OR**
28 **LOCAL LAW:**

29 **1. THE STATE TREASURER SHALL NOTIFY THE**
30 **LOCAL GOVERNMENT UNIT; AND**

31 **2. THE ~~GOVERNING BODY OF THE~~ LOCAL**
32 **GOVERNMENT UNIT SHALL PREPARE AND SUBMIT A REVISED LOCAL DEBT**
33 **POLICY.**

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

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

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

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

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

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

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

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

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

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

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

4 (I) **A REPORT OF THE LOCAL GOVERNMENT INVESTMENT**
5 **PORTFOLIO; OR**

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

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

12 [(3)] (4) The Joint Committee on the Management of Public Funds
13 may request the Attorney General to seek judicial enforcement against the local
14 government unit.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.