

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;

- (ii) The amount of the fund; and
- (iii) The manner in which money in the fund is invested;

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

- (i) The amount of the levy imposed;
- (ii) The amount of the levy collected; and
- (iii) Separate items for:
 - 1. The amount of any special assessment levied; and
 - 2. The amount of that assessment collected;

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

- (i) The amount of the levy imposed; and
- (ii) The amount of uncollected taxes;

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

- (i) The population in the most recent federal census; and
- (ii) Any official or unofficial population estimates for the fiscal year in which the report is made;

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

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

(I) VARIABLE INTEREST RATE DEBT INSTRUMENTS;

(II) INTEREST RATE EXCHANGE AGREEMENTS OR SWAPS;

23 AND

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

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

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

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

Article 95 – Treasurer

18 22F.

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

20 (2) "Chief executive" means:

21 (i) For Baltimore City, the Mayor;

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

24 (iii) For a charter county, the elected county executive or, if the
25 county does not have an elected executive, the chairman or president of the county
26 council;

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

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

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

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.

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;

(iii) For a charter county, as provided by local law, the county 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;

(ii) "Public funds" does not include revenues held as part of a 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:

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

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:

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

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

(3) If the governing body of a local government unit amends its local investment policy, the local government shall submit its new policy to the State 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:

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.

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.

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.**

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.

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.