

HOUSE BILL 765

P1
SB 610/09 – B&T

0lr1646
CF SB 205

By: **Delegate Heller (Chair, Joint Committee on the Management of Public Funds) and Delegates Elmore, Howard, and Levy**
Introduced and read first time: February 5, 2010
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Treasury – Permissible Investments of State Money**

3 FOR the purpose of altering certain permissible investments of State money by the
4 Treasurer of the State; establishing certain purposes for cash portfolio
5 management by the Treasurer; authorizing the Treasurer to sell, redeem, lend,
6 exchange, and enter into repurchase and reverse–repurchase agreements for
7 certain investments; and generally relating to the permissible investments of
8 State money.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 6–222
12 Annotated Code of Maryland
13 (2009 Replacement Volume)

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

16 **Article – State Finance and Procurement**

17 6–222.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (3) a repurchase agreement collateralized in an amount not less than
2 102% of the principal amount by an obligation of the United States, its agencies or
3 instrumentalities, provided the collateral is held by a custodian other than the seller
4 designated by the buyer;

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

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

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

22 (7) money market mutual funds that:

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

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

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

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

34 (b) **[The] FOR THE PURPOSES OF CASH AND PORTFOLIO MANAGEMENT,**
35 **INCLUDING MAXIMIZING RETURN ON AUTHORIZED INVESTMENTS, PRESERVING**
36 **SECURITIES UNTIL THEIR MATURITIES, AND PROVIDING LIQUIDITY FOR THE**
37 **PURCHASE OR REDEMPTION OF STATE VARIABLE RATE INTEREST BONDS, THE**

1 Treasurer may, **IN ACCORDANCE WITH THE LIMITATIONS OF THIS SECTION**, sell,
2 redeem, **LEND**, or exchange an investment or reinvestment made under this section
3 **[in accordance with the limitations of this section]**, **OR ENTER INTO A REPURCHASE**
4 **OR A REVERSE-REPURCHASE AGREEMENT FOR SUCH AN INVESTMENT.**

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

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

12 (2) the net income earned;

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

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

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

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

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

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

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

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

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

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

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

1 (e) (1) (i) Consistent with minority business purchasing standards
2 applicable to units of State government under this article and consistent with the
3 fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest
4 extent feasible minority business enterprises for brokerage and investment
5 management services under this section.

6 (ii) For purposes of this subsection, brokerage and investment
7 management services shall include services relating to all allocated asset classes as
8 described in subsection (a) of this section.

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

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

18 (3) In conjunction with the Governor's Office of Minority Affairs, the
19 Treasurer shall develop guidelines to assist in identifying and evaluating qualified
20 minority business enterprises in order to help the Treasurer achieve the objective for
21 greater use of minority business enterprises for brokerage and investment
22 management services under this section.

23 (4) On or before September 1 each year, the Treasurer shall submit a
24 report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State
25 Government Article, the General Assembly on:

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

29 (ii) the percentage and dollar value of the assets under the
30 custody of the Treasurer that are under the investment control of minority business
31 enterprise brokerage and investment management services firms; and

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2010.