

# SENATE BILL 793

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CF HB 845

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By: **Senators Garagiola, Forehand, King, and Pugh**

Introduced and read first time: February 10, 2010

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Investments – Qualified Information**  
3 **Technology, Green Technology, Medical Device Technology, or Bioscience**  
4 **Businesses**

5 FOR the purpose of requiring the Board of Trustees of the State Retirement and  
6 Pension System to invest a certain amount of the assets of the several systems  
7 of the State Retirement and Pension System within a certain period of time in  
8 certain venture capital funds focused on certain types of businesses; requiring  
9 certain venture capital funds to invest a certain amount of the assets of the  
10 several systems in certain types of businesses; requiring the Board of Trustees  
11 to submit certain reports containing certain information on or before a certain  
12 date; providing for the termination of this Act; defining certain terms; and  
13 generally relating to the Board of Trustees investing the assets of the several  
14 systems in qualified information technology, green technology, medical device  
15 technology, or bioscience businesses.

16 BY repealing and reenacting, with amendments,  
17 Article – State Personnel and Pensions  
18 Section 21–123  
19 Annotated Code of Maryland  
20 (2009 Replacement Volume and 2009 Supplement)

21 Preamble

22 WHEREAS, Maryland’s existing initiatives to help bioscience companies are  
23 lagging in resources; and

24 WHEREAS, Maryland has no targeted public pension fund vehicle for  
25 addressing opportunities to invest in emerging bioscience companies; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, This powerful combination of intellectual capital, federal research  
2 dollars, and a highly educated workforce has already positioned Maryland to be a  
3 leader in the industry; now, therefore,

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

6 **Article – State Personnel and Pensions**

7 21–123.

8 (a) Except for those assets that the law requires another entity or person to  
9 control, the State Retirement Agency, under the supervision of the Board of Trustees,  
10 shall manage all assets of the several systems.

11 (b) The Board of Trustees:

12 (1) is deemed the owner of all the assets of the several systems; but

13 (2) may delegate some or all incidents of ownership to the State  
14 Retirement Agency to administer the investment portfolios of the several systems.

15 (c) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE  
16 THE MEANINGS INDICATED.

17 (ii) “QUALIFIED INFORMATION TECHNOLOGY, GREEN  
18 TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS”  
19 MEANS A BUSINESS THAT:

20 1. IS PRIMARILY ENGAGED IN:

21 A. MANUFACTURING, PROCESSING, OR ASSEMBLING  
22 INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE  
23 TECHNOLOGY, OR BIOSCIENCE PRODUCTS;

24 B. CONDUCTING INFORMATION TECHNOLOGICAL,  
25 GREEN TECHNOLOGICAL, MEDICAL DEVICE TECHNOLOGICAL, OR BIOSCIENCE  
26 RESEARCH AND DEVELOPMENT; OR

27 C. PROVIDING INFORMATION TECHNOLOGY, GREEN  
28 TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE-RELATED  
29 SERVICES; AND

30 2. IS NOT PRIMARILY ENGAGED IN:

31 A. RETAIL SALES;

1                   **B. REAL ESTATE DEVELOPMENT;**

2                   **C. THE BUSINESS OF INSURANCE, BANKING, OR**  
3 **LENDING; OR**

4                   **D. THE PROVISION OF PROFESSIONAL SERVICES**  
5 **PROVIDED BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.**

6                   **(III) "STATE-BASED COMPANY" MEANS A COMPANY THAT:**

7                   1. **IS HEADQUARTERED IN THE STATE AND INTENDS**  
8 **TO REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR IS**  
9 **HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS**  
10 **HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT;**

11                   2. **HAS ITS PRINCIPAL BUSINESS OPERATIONS**  
12 **LOCATED IN THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN**  
13 **THE STATE AFTER RECEIPT OF THE INVESTMENT OR HAS ITS PRINCIPAL**  
14 **BUSINESS OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO**  
15 **RELOCATE BUSINESS OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER**  
16 **RECEIPT OF THE INVESTMENT;**

17                   3. **HAS AGREED TO USE THE QUALIFIED INVESTMENT**  
18 **PRIMARILY TO:**

19                   A. **SUPPORT BUSINESS OPERATIONS IN THE STATE;**  
20 **OR**

21                   B. **IN THE CASE OF A START-UP COMPANY,**  
22 **ESTABLISH AND SUPPORT BUSINESS OPERATIONS IN THE STATE; AND**

23                   4. **EITHER:**

24                   A. **EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN**  
25 **THE STATE; OR**

26                   B. **PAYS AT LEAST 80% OF ITS PAYROLL TO**  
27 **EMPLOYEES IN THE STATE.**

28                   **(2) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS**  
29 **SUBSECTION, BEGINNING ON OR AFTER JULY 1, 2010, AND ENDING ON OR**  
30 **BEFORE JUNE 30, 2015, THE BOARD OF TRUSTEES SHALL INVEST \$50,000,000**  
31 **IN VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION**

1 TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR  
2 BIOSCIENCE BUSINESSES.

3 (3) ANY INVESTMENT MADE BY THE BOARD OF TRUSTEES UNDER  
4 PARAGRAPH (2) OF THIS SUBSECTION IN VENTURE CAPITAL FUNDS FOCUSING  
5 ON A QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL  
6 DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS MAY NOT EXCEED 10% OF THE  
7 TOTAL AMOUNT OF ALL FUNDING RECEIVED BY THAT VENTURE CAPITAL FUND.

8 (4) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF  
9 TRUSTEES SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE  
10 STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION  
11 COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT  
12 COMMITTEE ON PENSIONS THAT PROVIDES:

13 (I) A LIST OF VENTURE CAPITAL FUNDS FOCUSING ON  
14 QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL  
15 DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES IN WHICH THE BOARD OF  
16 TRUSTEES HAS INVESTED AND THE AMOUNT INVESTED IN EACH VENTURE  
17 CAPITAL FUND;

18 (II) A LIST OF THE STATE-BASED COMPANIES IN WHICH THE  
19 VENTURE CAPITAL FUNDS HAVE INVESTED ASSETS OF THE SEVERAL SYSTEMS  
20 AND THE AMOUNT INVESTED IN EACH;

21 (III) THE INVESTMENT RETURNS ON EACH INVESTMENT  
22 MADE BY A VENTURE CAPITAL FUND FOCUSING ON QUALIFIED INFORMATION  
23 TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR  
24 BIOSCIENCE BUSINESS; AND

25 (IV) RECOMMENDATIONS BY THE BOARD OF TRUSTEES TO  
26 IMPROVE THE METHODOLOGY UNDER WHICH THE BOARD OF TRUSTEES IS  
27 REQUIRED TO INVEST IN VENTURE CAPITAL FUNDS FOCUSED ON QUALIFIED  
28 INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE  
29 TECHNOLOGY, OR BIOSCIENCE BUSINESSES.

30 [(c)] (D) (1) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS  
31 SECTION, THE Board of Trustees may invest assets of the several systems subject to  
32 the conditions that it imposes.

33 (2) The Board of Trustees shall include the conditions that it adopts  
34 under [paragraph (1) of] this subsection in the investment policy manual required by §  
35 21-116(c) of this subtitle.



- 1 (iv) the Law Enforcement Officers' Pension System;
- 2 (v) the State Police Retirement System;
- 3 (vi) the group that consists of the Teachers' Pension System and  
4 the Teachers' Retirement System; and
- 5 (vii) the Postretirement Health Benefits Trust Fund.

6 **[(f)] (G)** (1) Notwithstanding any other law in force on or after July 1,  
7 1988, unless the law makes specific reference to this subsection, and subject to  
8 paragraph (2) of this subsection, the Board of Trustees may keep all analyses,  
9 forecasts, negotiations, papers, records, recommendations, and reports closed to public  
10 inspection until:

11 (i) the release of the information would not adversely affect the  
12 negotiation for or market price of a security; and

13 (ii) completion of:

14 1. a proposed purchase or program of purchases leading  
15 to a cumulative position in a security;

16 2. the making, sale, or prepayment of a loan;

17 3. any proposed sale or program of sales leading to the  
18 elimination of a position in a security; or

19 4. the sale or purchase of real estate.

20 (2) (i) The sale or purchase of real estate shall be subject to the  
21 approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and  
22 Management, in their capacity as members of the Board of Trustees.

23 (ii) On or before October 1 of each year, the Board of Trustees  
24 shall submit a report in accordance with § 2-1246 of the State Government Article to  
25 the Board of Public Works, the Senate Budget and Taxation Committee, the House  
26 Appropriations Committee, and the Joint Committee on Pensions that provides a list  
27 of all sales or purchases of directly held real estate approved by the Board of Trustees  
28 for the immediately preceding fiscal year.

29 **[(g)] (H)** Any direct owned real estate purchased as an investment by the  
30 State Retirement and Pension System shall be managed by an external investment  
31 manager selected by the Chief Investment Officer.

1           **[(h)] (I)**       Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and  
2 Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or  
3 other disposition of any real or personal property acquired by the Board of Trustees in  
4 any transaction authorized under this title.

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30,  
7 2015, with no further action required by the General Assembly, this Act shall be  
8 abrogated and of no further force and effect.