

Chapter 728

(Senate Bill 899)

AN ACT concerning

State Retirement and Pension System – Investment Division

FOR the purpose of clarifying that the compensation of the Executive Director for the State Retirement Agency and certain staff shall be as provided in the State budget; requiring the Board of Trustees for the State Retirement and Pension System to adopt certain criteria for setting the qualifications and compensation of the Chief Investment Officer for the State Retirement and Pension System; prohibiting certain adjustments to the compensation of the Chief Investment Officer; requiring certain financial incentives awarded to the Chief Investment Officer and certain employees in the Investment Division to be paid in a certain manner; prohibiting certain financial incentives from being paid under certain circumstances; prohibiting certain financial incentives from being paid in a fiscal year when State employees are subject to a furlough; requiring certain financial incentives not paid under certain circumstances to be paid if certain conditions are satisfied; authorizing the Board of Trustees to determine the qualifications and compensation for positions within the Investment Division of the State Retirement Agency; authorizing the Board of Trustees to determine and create the type and number of certain positions necessary for carrying out certain investment functions; requiring the Board of Trustees to adopt objective criteria to be followed when exercising certain authority established under this Act; altering a requirement that the Board of Trustees report certain information to certain entities; requiring the Board of Trustees to report certain information to certain entities; requiring the Board of Trustees to adopt certain criteria for setting the qualifications and compensation of certain positions in the Investment Division; prohibiting the Board of Trustees from granting any increases in compensation for certain positions in the Investment Division under certain circumstances; prohibiting the Board of Trustees from setting compensation for certain positions in the Investment Division above a certain amount; requiring the Board of Trustees to adopt certain criteria for granting certain financial incentives to certain employees in the Investment Division; prohibiting the Board of Trustees from awarding financial incentives to certain positions; establishing that personnel and operational expenses of the Investment Division are investment management services to be paid from the expense fund of each State system on a pro rata basis; establishing an Objective Criteria Committee of the Board of Trustees; providing for the membership and chair of the Committee; providing that a certain individual may not serve as chair of the Committee; requiring the Committee to meet and make certain recommendations by a certain date; requiring the Committee to meet at certain intervals; requiring the Committee to make certain recommendations to the Board of Trustees regarding the objective criteria to be used in setting compensation and awarding financial incentives to certain employees in the Investment Division; requiring the Board of Trustees to enter into an agreement with ~~an investment~~ a consultant to provide certain services to the Committee; prohibiting the Board of

Trustees from entering into a certain agreement with an investment a consultant that provides certain services to the Board of Trustees; requiring the Chief Investment Officer to serve in a certain advisory role to the Committee; prohibiting the Chief Investment Officer from participating in certain deliberations of the Committee; establishing that members of the Committee are fiduciaries; altering the amount of funds to which the Board of Trustees may enter into a certain agreement for the investment of funds in certain private equity and venture capital investments in the State; requiring the personnel and operational expenses of the Investment Division to be appropriated paid out of the accumulation fund of each State system on a pro rata basis; establishing that personnel and operational expenses of the Investment Division are not included in the calculation of a certain payment by the State and local employers; making conforming changes; and generally relating to the governance and funding of the Investment Division of the State Retirement Agency.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 21–118(c)(1), 21–118.1, 21–122, 21–123.2(d)(1) and (2), 21–201(b), 21–303(d)(2), 21–315, and 21–316(b)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 21–303(d)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions

21–118.

(c) (1) **(I)** The Executive Director shall employ a staff ~~in accordance with the State budget~~ **TO CARRY OUT THE ADMINISTRATIVE DUTIES OF THE SEVERAL SYSTEMS.**

(II) EXCEPT AS PROVIDED IN § 21–315 OF THIS TITLE, THE COMPENSATION OF THE EXECUTIVE DIRECTOR AND STAFF SHALL BE AS PROVIDED IN THE STATE BUDGET.

21–118.1.

(a) Notwithstanding any other provision of law, on the recommendation of the Executive Director and the Investment Committee, the Board of Trustees shall determine

the qualifications and appointment, as well as compensation and leave, for the Chief Investment Officer who shall be the head of the Investment Division.

(b) (1) In making determinations and appointments under this section, the Executive Director and the Investment Committee shall consider the comparative qualifications, compensation, and leave of employees serving in similar positions and discharging similar duties at comparable public pension funds.

(2) (I) **1. THE BOARD OF TRUSTEES SHALL ADOPT OBJECTIVE CRITERIA FOR SETTING THE QUALIFICATIONS AND COMPENSATION OF THE CHIEF INVESTMENT OFFICER.**

2. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE OBJECTIVE CRITERIA COMMITTEE UNDER § 21-122(G) OF THIS SUBTITLE BEFORE ADOPTING OBJECTIVE CRITERIA FOR SETTING COMPENSATION.

(II) **THE CRITERIA ADOPTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE OBJECTIVE BENCHMARKS OF INVESTMENT PERFORMANCE THAT SHALL BE MET OR EXCEEDED FOR THE CHIEF INVESTMENT OFFICER TO BE ELIGIBLE FOR AN INCREASE IN COMPENSATION.**

(III) **THE BOARD MAY NOT GRANT ANY INCREASES IN COMPENSATION TO THE CHIEF INVESTMENT OFFICER IN A FISCAL YEAR IN WHICH STATE EMPLOYEES ARE SUBJECT TO A FURLOUGH.**

(IV) **THE CHIEF INVESTMENT OFFICER'S COMPENSATION MAY NOT BE ADJUSTED IN ACCORDANCE WITH COST-OF-LIVING ADJUSTMENTS AND MERIT INCREASES AVAILABLE TO STATE EMPLOYEES.**

(c) (1) In addition to the Board of Trustees setting the [salary] **COMPENSATION** of the Chief Investment Officer under subsection (a) of this section [in accordance with the State budget], the Board of Trustees may also award financial incentives to the Chief Investment Officer in accordance with **THIS SUBSECTION AND** subsection (d) of this section.

(2) (I) **ANY FINANCIAL INCENTIVES PAID SHALL BE PAID OVER MULTIPLE FISCAL YEARS IN EQUAL INSTALLMENTS.**

(II) **THE DATES ON WHICH FINANCIAL INCENTIVES AWARDED UNDER THIS SECTION SHALL BE PAID SHALL BE SET BY THE BOARD OF TRUSTEES AT THE TIME THE FINANCIAL INCENTIVES ARE DETERMINED.**

(III) THE DATES SET UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY NOT BE CHANGED AFTER BEING SET.

(3) IF THE CHIEF INVESTMENT OFFICER SEPARATES FROM EMPLOYMENT, THE BOARD OF TRUSTEES MAY NOT PAY OUT ANY REMAINING FINANCIAL INCENTIVES DUE TO BE PAID AFTER THE DATE OF SEPARATION FROM EMPLOYMENT.

(4) (I) THE BOARD OF TRUSTEES MAY NOT PAY FINANCIAL INCENTIVES IN A FISCAL YEAR IN WHICH STATE EMPLOYEES ARE SUBJECT TO A FURLOUGH.

(II) THE BOARD OF TRUSTEES SHALL PAY OUT ANY FINANCIAL INCENTIVES NOT PAID IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH ONLY:

1. AFTER THE FURLOUGH PERIOD HAS ENDED; AND

2. IF THE CHIEF INVESTMENT OFFICER IS CURRENTLY EMPLOYED AS THE CHIEF INVESTMENT OFFICER.

(d) (1) (I) 1. On the recommendation of the Investment Committee, the Board of Trustees shall establish **OBJECTIVE** criteria for awarding financial incentives to the Chief Investment Officer.

2. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE OBJECTIVE CRITERIA COMMITTEE UNDER § 21-122(G) OF THIS SUBTITLE BEFORE ADOPTING OBJECTIVE CRITERIA FOR AWARDING FINANCIAL INCENTIVES.

(II) FINANCIAL INCENTIVES MAY ONLY BE AWARDED BASED ON THE OBJECTIVE CRITERIA ADOPTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) The criteria under paragraph (1) of this subsection shall [be based on] INCLUDE:

(i) objective benchmarks of investment performance for the assets of the several systems THAT SHALL BE MET OR EXCEEDED; [and]

(ii) OBJECTIVE criteria used by comparable public pension funds awarding financial incentives to chief investment officers; AND

(III) LIMITATIONS ON THE AMOUNT OF FINANCIAL INCENTIVES IN A FISCAL YEAR, NOT TO EXCEED 33% OF THE CHIEF INVESTMENT OFFICER'S COMPENSATION EXCLUSIVE OF FINANCIAL INCENTIVES.

(3) The Chief Investment Officer may not participate in any deliberations regarding the establishment of criteria under this subsection.

(4) The criteria established under this subsection shall be included in the investment policy manual.

(5) On or before September 1 of each year, the Board of Trustees shall submit to the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article, a copy of the most recent criteria established under this section and any financial incentives that were awarded for the previous fiscal year to the Chief Investment Officer.

(e) [The compensation and any financial incentives awarded to the Chief Investment Officer shall be in accordance with the limitations on administrative and operational expenses under § 21-315(c) of this title.

(f) The Chief Investment Officer appointed under this section is a State employee and shall be entitled to participate in the Employees' Pension System under Title 23 of this article.

[(g)] (F) On the recommendation of either the Investment Committee or the Executive Director and on receiving an affirmative vote from a majority of the Board of Trustees, the Executive Director shall terminate the appointment of the Chief Investment Officer.

21-122.

(a) (1) There is an Investment Division in the State Retirement Agency.

(2) Subject to [paragraph (3) of this subsection] **SUBSECTION (F) OF THIS SECTION**, the Board of Trustees shall determine the qualifications and compensation for [the following] positions within the Investment Division[:

(i) deputy chief investment officer; and

(ii) managing director].

(3) The Board of Trustees[may not:

(i) set or increase the salary for the deputy chief investment officer at an amount greater than the maximum salary under the ES11 scale of the Maryland Executive Pay Plan;

(ii) set or increase the salary for a managing director at an amount greater than the maximum salary under the ES9 scale of the Maryland Executive Pay Plan;

(iii) provide bonuses for an employee; or

(iv) subject to the limitations under items (i) and (ii) of this paragraph, set or increase the salary for a position that provides more than a 10% increase over the lowest salary for the position in the prior fiscal year];

(I) MAY DETERMINE AND CREATE THE TYPE AND NUMBER OF POSITIONS NECESSARY FOR CARRYING OUT THE PROFESSIONAL INVESTMENT FUNCTIONS OF THE INVESTMENT DIVISION; AND

(II) SHALL ADOPT OBJECTIVE CRITERIA TO BE FOLLOWED WHEN EXERCISING ITS AUTHORITY UNDER ITEM (I) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION.

(4) On or before October 1, 2012, and each October 1 thereafter, the Board of Trustees shall report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article on:

(i) the current [salaries] **COMPENSATION** of the [deputy chief investment officer and the managing directors] **THE CHIEF INVESTMENT OFFICER AND EMPLOYEES** of the Investment Division;

(ii) any [salary] **COMPENSATION** increases [the deputy chief investment officer or managing directors] **THE CHIEF INVESTMENT OFFICER AND EMPLOYEES** of the Investment Division have received in the fiscal year immediately preceding that October 1; [and]

(iii) 1. the number of individuals in the Investment Division of the State Retirement Agency who were employed as professional investment staff and terminated employment with the State Retirement Agency in the fiscal year immediately preceding that October 1;

2. the number of years of employment an individual described in item 1 of this item had accrued with the State Retirement Agency at the time the individual terminated employment with the State Retirement Agency; and

3. to the extent possible, the new employer, position, and [salary] **COMPENSATION** the individual described in item 1 of this item accepted upon terminating employment with the State Retirement Agency;

(IV) THE CRITERIA USED TO SET THE COMPENSATION OF EMPLOYEES OF THE INVESTMENT DIVISION;

(V) THE CRITERIA USED TO DETERMINE THE TYPE AND NUMBER OF POSITIONS NECESSARY TO CARRY OUT THE FUNCTIONS OF THE INVESTMENT DIVISION;

(VI) THE NUMBER OF EMPLOYEES ELIGIBLE FOR FINANCIAL INCENTIVES, AND THE FINANCIAL INCENTIVES PAID IN THE CURRENT FISCAL YEAR; AND

(VII) THE NET IMPACT ON SYSTEM INVESTMENT RETURNS ATTRIBUTABLE TO THE COSTS OF THE INVESTMENT DIVISION FOR THE PRECEDING FISCAL YEAR.

(b) As the Board of Trustees specifies, the Investment Division shall invest the assets of the several systems.

(c) (1) Quarterly, the Investment Division shall submit to the Board of Trustees a report about the commissions that the State Retirement Agency pays on investments.

(2) The report shall detail:

(i) the identity of each recipient of a commission that the State Retirement Agency paid during the previous quarter;

(ii) the dollar amount of commission business that each recipient performs;

(iii) the average price-per-share each recipient charged or, if the commission was paid on a net basis, the markup or markdown that the recipient uses; and

(iv) a reasonable history of the allocation of commissions.

(d) On behalf of the several systems, the Chief Investment Officer:

(1) may hire external investment managers to invest the assets of the several systems;

(2) may select and invest in specific investment vehicles, including limited partnerships, private equity fund investments, and private real estate fund investments; and

(3) may terminate the appointment of an external investment manager.

(e) Prior to terminating the appointment of an external investment manager under subsection (d)(2) of this section, the Chief Investment Officer shall provide written documentation to the Board of Trustees and the Investment Committee explaining the basis for the termination.

(F) (1) (I) 1. THE BOARD OF TRUSTEES SHALL ADOPT OBJECTIVE CRITERIA FOR SETTING THE QUALIFICATIONS AND COMPENSATION OF POSITIONS UNDER SUBSECTION (A) OF THIS SECTION.

2. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE OBJECTIVE CRITERIA COMMITTEE UNDER SUBSECTION (G) OF THIS SECTION BEFORE ADOPTING OBJECTIVE CRITERIA FOR SETTING COMPENSATION.

(II) THE CRITERIA ADOPTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. CONSIDERATION OF THE COMPARATIVE QUALIFICATIONS AND COMPENSATION OF EMPLOYEES SERVING IN SIMILAR POSITIONS AND DISCHARGING SIMILAR DUTIES AT COMPARABLE PUBLIC PENSION FUNDS;

2. LIMITATIONS ON THE AMOUNT BY WHICH THE COMPENSATION FOR A POSITION MAY BE INCREASED EACH FISCAL YEAR, NOT TO EXCEED 10%; AND

3. OBJECTIVE BENCHMARKS OF INVESTMENT PERFORMANCE THAT SHALL BE MET OR EXCEEDED BY AN INDIVIDUAL TO BE ELIGIBLE FOR AN INCREASE IN COMPENSATION.

(III) THE BOARD OF TRUSTEES MAY NOT GRANT ANY INCREASES IN COMPENSATION IN A FISCAL YEAR IN WHICH STATE EMPLOYEES ARE SUBJECT TO A FURLOUGH.

(IV) FOR POSITIONS THAT DO NOT INVOLVE DISCRETION OVER INVESTMENT-RELATED DECISIONS, THE BOARD OF TRUSTEES MAY NOT SET COMPENSATION THAT EXCEEDS COMPENSATION FOR PROVIDING COMPARABLE SERVICES IN OTHER STATE EMPLOYMENT.

(V) EXCEPT FOR POSITIONS UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE COMPENSATION OF AN EMPLOYEE MAY NOT BE ADJUSTED IN ACCORDANCE WITH COST-OF-LIVING ADJUSTMENTS AND MERIT INCREASES AVAILABLE TO STATE EMPLOYEES.

(2) (I) 1. THE BOARD OF TRUSTEES SHALL ADOPT OBJECTIVE CRITERIA FOR ~~GRANTING~~ AWARDING FINANCIAL INCENTIVES UNDER SUBSECTION (A) OF THIS SECTION.

2. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE OBJECTIVE CRITERIA COMMITTEE UNDER SUBSECTION (G) OF THIS SECTION BEFORE ADOPTING OBJECTIVE CRITERIA FOR AWARDING FINANCIAL INCENTIVES.

(II) FINANCIAL INCENTIVES MAY ONLY BE AWARDED BASED ON THE OBJECTIVE CRITERIA ADOPTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) THE CRITERIA ADOPTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. LIMITATIONS ON THE AMOUNT OF FINANCIAL INCENTIVES FOR A POSITION IN A FISCAL YEAR, NOT TO EXCEED 33% OF A POSITION'S COMPENSATION, EXCLUSIVE OF FINANCIAL INCENTIVES; AND

2. OBJECTIVE BENCHMARKS OF INVESTMENT PERFORMANCE THAT SHALL BE MET OR EXCEEDED BY AN INDIVIDUAL TO BE ELIGIBLE FOR FINANCIAL INCENTIVES, INCLUDING BENCHMARKS FOR THE ASSET CLASS IN WHICH INVESTMENTS ARE UNDER THE DIRECTION OF THE INDIVIDUAL.

~~(III)~~ (IV) 1. ANY FINANCIAL INCENTIVES PAID SHALL BE PAID OVER MULTIPLE FISCAL YEARS IN EQUAL INSTALLMENTS.

2. THE DATES ON WHICH FINANCIAL INCENTIVES AWARDED UNDER THIS SECTION SHALL BE PAID SHALL BE SET BY THE BOARD OF TRUSTEES AT THE TIME THE FINANCIAL INCENTIVES ARE DETERMINED.

3. THE DATES SET UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH MAY NOT BE CHANGED AFTER BEING SET.

~~(IV)~~ (V) IF AN INDIVIDUAL WHO HAS EARNED FINANCIAL INCENTIVES SEPARATES FROM EMPLOYMENT IN THE INVESTMENT DIVISION, THE BOARD OF TRUSTEES MAY NOT PAY OUT ANY REMAINING FINANCIAL INCENTIVES DUE TO BE PAID AFTER THE DATE OF SEPARATION FROM EMPLOYMENT.

~~(V)~~ (VI) THE BOARD OF TRUSTEES MAY NOT AWARD FINANCIAL INCENTIVES FOR POSITIONS THAT DO NOT INVOLVE DISCRETION OVER INVESTMENT-RELATED DECISIONS.

~~(VI)~~ (VII) 1. THE BOARD OF TRUSTEES MAY NOT PAY OUT FINANCIAL INCENTIVES IN A FISCAL YEAR IN WHICH STATE EMPLOYEES ARE SUBJECT TO A FURLOUGH.

2. THE BOARD OF TRUSTEES SHALL PAY OUT ANY FINANCIAL INCENTIVES NOT PAID TO AN INDIVIDUAL IN ACCORDANCE WITH SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH ONLY:

A. AFTER THE FURLOUGH PERIOD HAS ENDED; AND

B. IF THE INDIVIDUAL IS CURRENTLY EMPLOYED IN THE INVESTMENT DIVISION.

(3) (I) ON OR BEFORE OCTOBER 1 EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A COPY OF THE MOST RECENT CRITERIA ADOPTED UNDER THIS SUBSECTION.

(II) IN ADDITION TO THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL SUBMIT, WITHIN 30 DAYS OF ADOPTION BY THE BOARD OF TRUSTEES, A COPY OF ANY CHANGES ADOPTED TO THE CRITERIA ESTABLISHED UNDER THIS SUBSECTION TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

(4) ON OR BEFORE OCTOBER 1, JANUARY 1, MARCH 1, AND JULY 1 EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT ON SYSTEM INVESTMENT RETURNS FOR THE PRECEDING FISCAL QUARTER, INCLUDING:

(I) INVESTMENT PERFORMANCE BY ASSET CLASS, INCLUDING PERFORMANCE RELATIVE TO ASSET CLASS BENCHMARKS; AND

(II) INVESTMENT PERFORMANCE OF ASSETS UNDER THE DIRECTION OF EACH INVESTMENT DIVISION EMPLOYEE.

(G) (1) THERE IS AN OBJECTIVE CRITERIA COMMITTEE OF THE BOARD OF TRUSTEES.

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(I) ONE MEMBER OF THE SENATE OF MARYLAND SERVING ON THE JOINT COMMITTEE ON PENSIONS, APPOINTED BY THE PRESIDENT OF THE SENATE ~~CHAIR OF THE JOINT COMMITTEE ON PENSIONS;~~

(II) ONE MEMBER OF THE HOUSE OF DELEGATES SERVING ON THE JOINT COMMITTEE ON PENSIONS, APPOINTED BY THE SPEAKER OF THE HOUSE ~~CHAIR OF THE JOINT COMMITTEE ON PENSIONS;~~

(III) THE STATE TREASURER OR THE STATE TREASURER'S DESIGNEE;

(IV) THE SECRETARY OF BUDGET AND MANAGEMENT OR THE SECRETARY'S DESIGNEE;

(V) ONE MEMBER OF THE BOARD OF TRUSTEES UNDER § 21-104(A)(4)(I), (II), (III), (IV), OR (V) OF THIS SUBTITLE, APPOINTED BY THE CHAIRMAN OF THE BOARD OF TRUSTEES;

(VI) ONE MEMBER OF THE BOARD OF TRUSTEES UNDER § 21-104(A)(4)(VIII) OF THIS SUBTITLE, APPOINTED BY THE CHAIRMAN OF THE BOARD OF TRUSTEES; AND

(VII) A MEMBER OF THE PUBLIC WITH FINANCIAL INDUSTRY EXPERIENCE, APPOINTED JOINTLY BY THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY.

(3) (I) ~~THE CHAIR OF THE COMMITTEE SHALL BE ELECTED BY THE MEMBERS OF THE COMMITTEE~~ CHAIRMAN OF THE BOARD OF TRUSTEES SHALL APPOINT THE CHAIR OF THE COMMITTEE.

(II) THE CHAIRMAN OF THE BOARD OF TRUSTEES MAY NOT SERVE AS THE CHAIR OF THE COMMITTEE.

(4) ON OR BEFORE DECEMBER 31, 2018, AND AT LEAST ONCE EVERY 5 YEARS THEREAFTER, THE COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE BOARD OF TRUSTEES ~~ESTABLISHING~~ REGARDING:

(I) OBJECTIVE CRITERIA UNDER § 21-118.1(B)(2) AND (D) OF THIS SUBTITLE FOR THE COMPENSATION AND FINANCIAL INCENTIVES FOR THE CHIEF INVESTMENT OFFICER; AND

(II) OBJECTIVE CRITERIA UNDER SUBSECTIONS (A) AND (F) OF THIS SECTION FOR THE COMPENSATION AND FINANCIAL INCENTIVES FOR THE POSITIONS IN THE INVESTMENT DIVISION.

(5) (I) THE BOARD OF TRUSTEES SHALL ENTER INTO AN AGREEMENT WITH AN INVESTMENT A CONSULTANT TO ASSIST THE COMMITTEE IN ESTABLISHING REGARDING OBJECTIVE CRITERIA UNDER THIS SUBSECTION.

(II) THE BOARD OF TRUSTEES MAY NOT ENTER INTO AN AGREEMENT WITH AN INVESTMENT A CONSULTANT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THAT INVESTMENT CONSULTANT IS ACTIVELY PROVIDING CONSULTING SERVICES FOR THE BOARD OF TRUSTEES AND THE STAFF OF THE INVESTMENT DIVISION.

(6) (I) THE CHIEF INVESTMENT OFFICER SHALL SERVE IN AN ADVISORY CAPACITY TO THE COMMITTEE.

(II) THE CHIEF INVESTMENT OFFICER MAY NOT PARTICIPATE IN ANY DELIBERATIONS REGARDING THE CRITERIA FOR COMPENSATION AND FINANCIAL INCENTIVES FOR THE CHIEF INVESTMENT OFFICER.

21-123.2.

(d) (1) The Board of Trustees may enter into an agreement with the Maryland Technology Development Corporation or another entity to make and manage investments on behalf of the Board of Trustees in private equity and venture capital in the State with the amount of money appropriated to the system, the State Retirement Agency, or the accumulation funds of the several systems that:

(I) FOR FISCAL YEAR 2017, is in addition to:

[(i)] 1. the amounts appropriated for the State and local employer contributions and the supplemental contribution required under §§ 21-308, 21-309, 21-309.1, and 21-310 of this title;

[(ii)] 2. the amount appropriated under § 7-311(j)(1)(i)1 of the State Finance and Procurement Article; and

[(iii)] 3. any other amounts required by any other provisions of law to be appropriated to the system, the State Retirement Agency, or the accumulation funds of the several systems; AND

(II) FOR FISCAL YEARS 2019 THROUGH 2022, IS APPROPRIATED UNDER § 21-308(A)(4) OF THIS TITLE.

(2) If the Board of Trustees does not enter into an agreement with the Maryland Technology Development Corporation or another entity in accordance with paragraph (1) of this subsection, the Board of Trustees shall develop a process that authorizes the Maryland Technology Development Corporation or another entity to provide recommendations regarding investments in private equity and venture capital in the State with respect to the [additional] amount described under paragraph (1) of this subsection.

21-201.

(b) “Fiduciary” means:

(1) a member of the Board of Trustees;

(2) a member of the Investment Committee;

(3) a member of a committee established by the Board of Trustees as authorized under § 21-108 of this title;

(4) A MEMBER OF A COMMITTEE ESTABLISHED UNDER § 21-122(G) OF THIS TITLE; or

[(4)] (5) an employee of the State Retirement Agency who exercises any discretionary authority or control over:

(i) the management or administration of the several systems; or

(ii) the management or disposition of the assets of the several systems.

21-303.

(d) (1) Except as provided in paragraph (2) of this subsection, each year, the Board of Trustees shall transfer from the accumulation fund of each State system to the expense fund of that system the amounts required by § 21-315 of this subtitle.

(2) The administrative and operational expenses of the Board of Trustees and the State Retirement Agency, not including amounts as authorized by the Board of Trustees necessary for investment management services **AND PERSONNEL AND OPERATIONAL EXPENSES OF THE INVESTMENT DIVISION**, shall be paid by participating employers as provided in § 21-316 of this subtitle and may not be transferred from the accumulation fund of each system.

21-315.

(a) The Board of Trustees shall credit to the expense fund of each State system its pro rata share of:

(1) the amount provided in the annual State budget to pay the administrative and operational expenses of the Board of Trustees and the State Retirement Agency;

(2) the amounts authorized by the Board of Trustees under this section for investment management services, **INCLUDING PERSONNEL AND OPERATIONAL EXPENSES OF THE INVESTMENT DIVISION**; and

(3) the amount authorized by the Board of Trustees to implement a closing agreement with the Internal Revenue Service regarding former members of the Employees' Retirement System or the Teachers' Retirement System who elected to become members of or participate in those State systems under former Article 73B, §§ 2–206 and 3–206 of the Code.

(b) **(1)** The Board of Trustees shall pay from the expense fund of each State system its pro rata share of:

[(1)] (I) the administrative and operational expenses of the Board of Trustees and the State Retirement Agency, in accordance with the annual State budget;

[(2)] (II) the amounts as authorized by the Board of Trustees necessary for investment management services, **INCLUDING PERSONNEL AND OPERATIONAL EXPENSES OF THE INVESTMENT DIVISION**; and

[(3)] (III) the amounts as authorized by the Board of Trustees necessary to implement a closing agreement with the Internal Revenue Service regarding former members of the Employees' Retirement System or the Teachers' Retirement System who elected to become members of or participate in those State systems under former Article 73B, §§ 2–206 and 3–206 of the Code.

(2) THE AMOUNTS FOR THE PERSONNEL AND OPERATIONAL EXPENSES OF THE INVESTMENT DIVISION SHALL BE ~~APPROPRIATED~~ PAID OUT OF THE ACCUMULATION FUND OF EACH STATE SYSTEM ON A PRO RATA BASIS AND MAY NOT BE PAID BY PARTICIPATING EMPLOYERS AS PROVIDED IN § 21–316 OF THIS SUBTITLE.

(c) Each year the Board of Trustees shall estimate the amount, not exceeding 0.22% of the payroll of members, necessary for the administrative and operational expenses of the Board of Trustees and the State Retirement Agency.

(d) (1) Each quarter of the fiscal year the Board of Trustees shall estimate one-fourth of an amount, not exceeding 0.5% of the market value as of the last day of the preceding quarter of invested assets that are externally managed exclusive of assets invested in real estate or alternative investments, necessary to procure and retain

investment management services other than external real estate or alternative investment management services.

(2) The Board of Trustees is not limited in the amount of investment manager fees that the Board of Trustees may pay as necessary for external real estate or alternative investment management services.

(e) (1) The amounts estimated under subsection (c) of this section shall be paid into the expense funds of the several systems during the ensuing year on a pro rata basis according to the total membership of each system.

(2) The amounts estimated under subsection (d) of this section shall be paid into the expense funds of the several systems during the ensuing year on a pro rata basis according to the total assets held by each system.

(f) The Board of Trustees may combine the expense funds of the several systems for budgetary and administrative efficiency.

(g) (1) On or before December 31 of each year, the Board of Trustees shall report to the General Assembly the actual amount spent for investment management services during the preceding fiscal year.

(2) ON OR BEFORE DECEMBER 31 EACH YEAR, THE BOARD OF TRUSTEES SHALL REPORT TO THE GENERAL ASSEMBLY THE ACTUAL AMOUNT SPENT FOR INVESTMENT DIVISION OPERATIONS DURING THE PRECEDING FISCAL YEAR.

21-316.

(b) (1) Subject to paragraph (3) of this subsection, for each fiscal year, the State and each local employer shall pay to the Board of Trustees their pro rata shares of the amount necessary for the administrative and operational expenses of the Board of Trustees and the State Retirement Agency.

(2) The pro rata share of the State and of each local employer for each fiscal year shall be based on the number of members of the several systems employed by the State or local employer as of June 30 of the second prior fiscal year compared to the total membership of the several systems as of that date.

(3) The State shall pay the pro rata share under this section of each library.

(4) THE ADMINISTRATIVE AND OPERATIONAL EXPENSES OF THE BOARD OF TRUSTEES AND THE STATE RETIREMENT AGENCY USED TO DETERMINE THE PRO RATA SHARES UNDER THIS SUBSECTION MAY NOT INCLUDE COSTS FOR THE PERSONNEL AND OPERATIONAL EXPENSES OF THE INVESTMENT DIVISION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, May 15, 2018.