HOUSE BILL 740

P6 2lr1753
CF SB 566

By: **Delegate Lierman (Chair, Joint Committee on Pensions)**
Introduced and read first time: February 3, 2022
Assigned to: Appropriations

Committee Report: Favorable
House action: Adopted
Read second time: March 2, 2022
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CHAPTER ______

AN ACT concerning

State Retirement and Pension System – Investment Climate Risk – Fiduciary Duties

FOR the purpose of requiring a fiduciary of the State Retirement and Pension System to consider certain climate risks on the assets of the several systems to ensure a long–term sustainable portfolio; requiring a climate risk assessment to include certain actions to determine the level of climate risk in the investment portfolio of the several systems; requiring the Chief Investment Officer for the State Retirement and Pension System to review and manage investments of the several systems based on the climate risk assessment; requiring the Chief Investment Officer to identify certain investment opportunities, develop transition assessments in certain sectors, and evaluate investment managers under certain circumstances; requiring that the policies of the Board of Trustees for the State Retirement and Pension System address climate risk in the investment of system assets through certain actions; requiring actions taken under this Act to be included in a certain report; providing that the Board of Trustees, or any other fiduciary of the several systems, may not be held liable for certain actions under certain circumstances; providing that nothing in this Act shall require the Board of Trustees to take certain actions unless certain circumstances exist; and generally relating to investment climate risk in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,

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.

Article – State Personnel and Pensions
Section 21–116(e)(1) and (2)
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 21–116.1
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, With 3,100 miles of shoreline, Maryland is the fourth most vulnerable state to suffer the effects of sea–level rise associated with climate change; and

WHEREAS, Rising sea levels and increased storm intensity could have devastating and far–reaching impacts on the Atlantic coast and the Chesapeake Bay ecosystem that affect the environmental, recreational, and economic benefits enjoyed by Maryland and her visitors; and

WHEREAS, Although Maryland's coastal areas may be considered particularly vulnerable, all areas of the State are at risk due to climate change's effect on the severity, frequency, or distribution of existing issues that are impacted either directly or indirectly by temperature and precipitation; and

WHEREAS, In the fall of 2019, Maryland released a comprehensive, economy–wide draft plan to dramatically reduce greenhouse gas emissions that contribute to climate change; and

WHEREAS, According to major institutional investors around the country, climate–related risk is investment risk; and

WHEREAS, Investors are already responding positively to investment opportunities that show significant progress on the management of climate–related risk, including transition plans to a net–zero economy; and

WHEREAS, State, national, and global transitions to increased use of renewable technology presents a significant investment opportunity that can be harnessed to support the retirement security of the over 400,000 participants in the State Retirement and Pension System; now, therefore,

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

Article – State Personnel and Pensions

21–116.

(e) (1) Consistent with its fiduciary duties, the Board of Trustees shall include policies in the investment policy manual adopted under subsection (c) of this section regarding the management of risk, including **THE MANAGEMENT OF** climate risks **IN ACCORDANCE WITH § 21–116.1 OF THIS SUBTITLE**, in the investment of system assets, and shall address:

(i) investment principles, guidelines, and policies that govern the selection and retention of the investments of the several systems, including proxy voting and engagement guidelines; and

(ii) a policy that proxy votes and sample due diligence questionnaires for prospective managers be published on the State Retirement Agency's website.

(2) (i) Consistent with its fiduciary duties, on or before January 31, 2019, and every year thereafter, the Board of Trustees shall submit a report on the risk assessment of the several systems, including climate risk, in accordance with **§ 21–116.1 OF THIS SUBTITLE AND** § 2–1257 of the State Government Article, to the General Assembly.

(ii) The assessment shall:

1. identify recent studies or actions by other U.S. state public pension funds, financial institutions, or risk experts, including those related to disclosure, risk assessment, investment principles, or other related issues or activities;

2. based on the information obtained in item 1 of this subparagraph, recommend best practices and consider whether these best practices can be incorporated into the investment policy manual;

3. examine the potential magnitude of the long–term risks and opportunities of multiple scenarios and related regulatory developments across industry sectors, asset classes, and the total portfolio of the several systems; and

4. include any other information the Board of Trustees or Investment Committee deems necessary.

(iii) The State Retirement Agency shall post a report regarding the risk assessment on its website.

21–116.1.

(A) IN ACCORDANCE WITH THE FIDUCIARY RESPONSIBILITIES AS DESCRIBED IN SUBTITLE 2 OF THIS TITLE, WHEN MANAGING THE ASSETS OF THE

SEVERAL SYSTEMS, A FIDUCIARY SHALL CONSIDER THE POTENTIAL SYSTEMIC RISKS OF THE IMPACT OF CLIMATE CHANGE ON THE ASSETS OF THE SEVERAL SYSTEMS, INCLUDING MONITORING NET–ZERO ALIGNED INVESTMENTS AND CLIMATE SOLUTIONS TO ENSURE A PATH TO A LONG–TERM SUSTAINABLE PORTFOLIO.

(B) THE CLIMATE RISK ASSESSMENT REQUIRED UNDER § 21–116 OF THIS SUBTITLE SHALL INCLUDE:

(1) A REVIEW OF THE TOTAL INVESTMENT PORTFOLIO OF THE SEVERAL SYSTEMS TO DETERMINE THE LEVEL OF CLIMATE RISK ACROSS INDUSTRY SECTORS AND ASSET CLASSES THAT PRIORITIZE HIGH–IMPACT SECTORS RESPONSIBLE FOR GREENHOUSE GAS EMISSIONS;

(2) IDENTIFYING INVESTMENT OPPORTUNITIES IN:

(I) EMERGING TECHNOLOGIES IN RENEWABLE ENERGY; AND

(II) TRANSITIONING, REDUCING, AND ELIMINATING CARBON–EMITTING TECHNOLOGY;

(3) ESTABLISHING A PROCESS FOR REGULAR REASSESSMENT OF THE POTENTIAL SYSTEMIC RISKS OF THE IMPACT OF CLIMATE CHANGE ON THE ASSETS OF THE SEVERAL SYSTEMS; AND

(4) UTILIZATION OF THE BEST DATA AND PRACTICES AVAILABLE IN CURRENT SCIENCE, INVESTMENT STRATEGIES, AND CLIMATE RISK ANALYSES.

(C) BASED ON THE INFORMATION OBTAINED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE CHIEF INVESTMENT OFFICER, SUBJECT TO THE POLICIES ADOPTED BY THE BOARD OF TRUSTEES:

(1) SHALL REVIEW AND MANAGE THE INVESTMENTS OF THE SEVERAL SYSTEMS; AND

(2) MAY CHOOSE TO INVEST OR DIVEST IN FUNDS WITHIN THE SEVERAL SYSTEMS.

(D) THE CHIEF INVESTMENT OFFICER SHALL:

(1) IDENTIFY ENVIRONMENTALLY SUSTAINABLE INVESTMENT OPPORTUNITIES TO SUPPORT A LOW–CARBON ECONOMY;

(2) DEVELOP TRANSITION ASSESSMENTS RELATING TO INVESTMENTS IN HIGH–IMPACT SECTORS;

(3) EVALUATE WHETHER INTERNAL AND EXTERNAL INVESTMENT MANAGERS ARE TAKING STEPS TO TRANSITION TO A MORE SUSTAINABLE BUSINESS MODEL ALIGNED WITH A LOW–CARBON ECONOMY; AND

(4) WORK WITH MANAGERS, DATA PROVIDERS, INDEX PROVIDERS, OR CONSULTANTS TO IDENTIFY, ANALYZE, DEFINE, AND PRIORITIZE ASSET–CLASS SPECIFIC METRICS AND MINIMUM STANDARDS TO EVALUATE TRANSITION READINESS AND RESILIENCY FOR COMPANIES IN HIGH–IMPACT SECTORS.

(E) THE POLICIES OF THE BOARD OF TRUSTEES SHALL ADDRESS AND MITIGATE CLIMATE RISK IN THE INVESTMENT OF SYSTEM ASSETS THROUGH:

(1) DIRECT ENGAGEMENT WITH MANAGERS, BROKERS, OR OTHER ENTITIES;

(2) PROXY VOTING;

(3) A PERIODIC REVIEW AND ASSESSMENT OF THE EFFECTIVENESS OF PROCEDURES USED FOR DIRECT ENGAGEMENT AND PROXY VOTING; AND

(4) TO THE EXTENT PRACTICABLE, THE ESTABLISHMENT OF AN ADVISORY PANEL OF EXPERTS IN THE ANALYSIS OF CLIMATE CHANGE RISK TO PROVIDE THE MOST CURRENT SCIENCE AND DATA AVAILABLE.

(F) ANY ACTION TAKEN IN ACCORDANCE WITH THIS SECTION SHALL BE INCLUDED IN THE RISK ASSESSMENT REPORT REQUIRED UNDER § 21–116 OF THIS SUBTITLE.

(G) THE BOARD OF TRUSTEES, OR ANY OTHER FIDUCIARY OF THE SEVERAL SYSTEMS AS DEFINED IN § 21–201(B) OF THIS TITLE, MAY NOT BE HELD LIABLE FOR ANY ACTIONS TAKEN OR DECISIONS MADE IN GOOD FAITH FOR THE PURPOSE OF COMPLYING WITH OR EXECUTING THIS SECTION.

(H) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD OF TRUSTEES, OR ANY OTHER FIDUCIARY OF THE SEVERAL SYSTEMS AS DEFINED IN § 21–201(B) OF THIS TITLE, TO TAKE ACTION AS DESCRIBED IN THIS SECTION UNLESS THE BOARD OF TRUSTEES OR OTHER FIDUCIARY DETERMINES, IN GOOD FAITH, THAT THE ACTION IS CONSISTENT WITH THE FIDUCIARY RESPONSIBILITIES OF THE BOARD OF TRUSTEES AS DESCRIBED IN SUBTITLE 2 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.