

Chapter 641

(House Bill 542)

AN ACT concerning

**State Retirement and Pension System – ~~Investment Committee~~ – Use of
Minority and Women-Owned Business Enterprises
(Diversity Among Asset Managers Act of 2022)**

FOR the purpose of ~~requiring the Investment Committee of the State Retirement Agency to use minority business enterprises to provide a certain percentage of brokerage and investment management services to the Board of Trustees for the State Retirement and Pension System and to manage a certain percentage of system assets;~~ requiring the Investment Committee of the State Retirement Agency to assess the use of minority business enterprises beginning on a certain date; requiring a certain certification agency and the Governor’s Office of Small, Minority, and Women Business Affairs, in consultation with certain entities, to study the brokerage and investment services used by the State Retirement and Pension System to evaluate whether remedial measures to assist minority and women-owned businesses would comply with a certain court opinion and any subsequent federal or constitutional requirements; and generally relating to the use of minority and women-owned business enterprises in the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–116(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–116(d)
Annotated Code of Maryland
(2015 Replacement Volume and 2021 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

21–116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to ~~attempt to~~ use ~~to the greatest extent feasible~~ minority business enterprises to provide brokerage and investment management services to the Board ~~IN ACCORDANCE WITH SUBPARAGRAPH (H) OF THIS PARAGRAPH.~~

~~(ii) THE USE OF MINORITY BUSINESS ENTERPRISES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONSIST OF:~~

~~1. AT LEAST 20% OF BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD; AND~~

~~2. MANAGEMENT OF AT LEAST 20% OF THE ASSETS OF THE SEVERAL SYSTEMS.~~

~~(H)~~ (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND EACH FISCAL YEAR THEREAFTER, THE BOARD OF TRUSTEES SHALL ASSESS THE USE OF MINORITY BUSINESS ENTERPRISES AS REQUIRED UNDER THIS SUBSECTION.

~~(IV)~~ (III) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the ~~goal~~ GOALS described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Small, Minority, and Women Business Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Small, Minority, and Women Business Affairs and, subject to § 2-1257 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article and the Governor’s Office of Small, Minority, and Women Business Affairs, in consultation with the State Retirement and Pension System, the Office of the Attorney General, and the General Assembly, shall initiate a study regarding the brokerage and investment services used by the State Retirement and Pension System to evaluate whether the enactment of remedial measures to assist minority and women–owned businesses in the brokerage and investment management services industry and market would comply with the Croson decision and any subsequent federal or constitutional requirements.

(b) The certification agency and the Governor’s Office of Small, Minority, and Women Business Affairs shall submit the findings of the study required under subsection (a) of this section to the Legislative Policy Committee, in accordance with § 2–1257 of the State Government Article, on or before July 1, 2023, so that the General Assembly may review the findings before the 2024 Session.

(c) The State Retirement and Pension System shall provide to the certification agency any information deemed necessary to assess the need for remedial measures to assist minority and women–owned businesses in the brokerage and investment management services industry and market.

(d) The Governor’s Office of Small, Minority, and Women Business Affairs, in consultation with the certification agency and the Office of the Attorney General, shall develop race– and gender–neutral approaches to address the needs of minority and women–owned businesses in the brokerage and investment management services industry and market and submit its report to the Legislative Policy Committee, in accordance with § 2–1257 of the State Government Article, on or before December 1, 2022, so that the General Assembly may review, consider, and adopt race– and gender–neutral alternatives to remedial measures that are not race and gender neutral.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2022. Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2023, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.