

SENATE BILL 153

P1

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CF HB 397

By: **Senator Augustine (Chair, Joint Committee on the Management of Public Funds)**

Introduced and read first time: January 16, 2023

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2023

CHAPTER _____

1 AN ACT concerning

2 **State Investment Portfolio – Investment Thresholds – Alterations**

3 FOR the purpose of repealing the limitations on investment in certain commercial paper in
4 which the Treasurer may invest or reinvest certain unexpended or surplus funds;
5 requiring the Treasurer to adopt regulations to establish a State investment policy
6 with certain thresholds; requiring the Treasurer to notify certain officials and
7 governing bodies of certain local government units about the provisions of this Act;
8 and generally relating to the investment portfolio of the State.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 6–222
12 Annotated Code of Maryland
13 (2021 Replacement Volume and 2022 Supplement)

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

16 **Article – State Finance and Procurement**

17 6–222.

18 (a) (1) In this section, “supranational issuer” means an international
19 development institution that:

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.



1 (i) provides financing, advisory services, or other financial services
2 to the institution's member countries to achieve the overall goal of improving living
3 standards through sustainable economic growth; and

4 (ii) is rated in the highest credit rating category by a nationally
5 recognized statistical rating organization.

6 (2) "Supranational issuer" includes:

7 (i) the World Bank;

8 (ii) the International Finance Corporation;

9 (iii) the Inter-American Development Bank;

10 (iv) the African Development Bank; and

11 (v) the Asian Development Bank.

12 (b) (1) **[The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
13 Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer
14 has custody in:

15 [(1)] (I) an obligation for which the United States has pledged its faith
16 and credit for the payment of the principal and interest;

17 [(2)] (II) an obligation that a federal agency or a federal instrumentality
18 has issued in accordance with an act of Congress;

19 [(3)] (III) an obligation issued and unconditionally guaranteed by a
20 supranational issuer denominated in United States dollars and eligible to be sold in the
21 United States;

22 [(4)] (IV) a repurchase agreement collateralized in an amount not less
23 than 102% of the principal amount by an obligation of the United States, its agencies or
24 instrumentalities, provided the collateral is held by a custodian other than the seller
25 designated by the buyer;

26 [(5)] (V) bankers' acceptances guaranteed by a financial institution with
27 a short-term debt rating in the highest letter and numerical rating by at least one
28 nationally recognized statistical rating organization as designated by either the United
29 States Securities and Exchange Commission or the Treasurer;

30 [(6)] (VI) with respect to amounts treated by the Internal Revenue Service
31 as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the

1 highest quality letter and numerical rating by at least one nationally recognized statistical
2 rating organization as designated by the United States Securities and Exchange
3 Commission issued by or on behalf of this or any other state or any agency, department,
4 county, municipal or public corporation, special district, authority, or political subdivision
5 thereof, or in any fund or trust that invests only in securities of the type described in this
6 item;

7 [(7)] (VII) commercial paper that has received the highest letter and
8 numerical rating by at least two nationally recognized statistical rating organizations as
9 designated by the United States Securities and Exchange Commission[, provided that such
10 commercial paper may not exceed 10% of the total investments made by the Treasurer
11 under this subsection];

12 [(8)] (VIII) money market mutual funds that:

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

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

18 [(iii)] 3. have received the highest possible rating from at least one
19 nationally recognized statistical rating organization as designated by the United States
20 Securities and Exchange Commission; and

21 [(9)] (IX) any investment portfolio created under the Maryland Local
22 Government Investment Pool defined under §§ 17-301 through 17-309 of the Local
23 Government Article of the Code that is administered by the Office of the State Treasurer.

24 **(2) INVESTMENTS MADE UNDER PARAGRAPH (1) OF THIS**
25 **SUBSECTION SHALL BE IN ACCORDANCE WITH THE THRESHOLDS ESTABLISHED IN**
26 **REGULATIONS ADOPTED UNDER SUBSECTION (G) OF THIS SECTION.**

27 (c) The Treasurer may sell, redeem, or exchange an investment or reinvestment
28 made under this section in accordance with the limitations of this section.

29 (d) Subject to § 2-1257 of the State Government Article, the Treasurer shall
30 report by January 3 of each year to the General Assembly on investment activities for
31 unexpended or surplus money over which the Treasurer has custody which have been
32 conducted during the previous fiscal year. At a minimum, the report shall specify for
33 General Fund investments and all other investments:

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

1 (2) the net income earned;

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

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

4 (e) An investment made pursuant to this section shall be made:

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

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

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

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

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

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

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

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

20 (f) (1) (i) Consistent with minority business purchasing standards
21 applicable to units of State government under this article and consistent with the fiduciary
22 duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible
23 minority business enterprises for brokerage and investment management services under
24 this section.

25 (ii) For purposes of this subsection, brokerage and investment
26 management services shall include services relating to all allocated asset classes as
27 described in subsection (b) of this section.

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

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

5 (3) In conjunction with the Governor's Office of Small, Minority, and
6 Women Business Affairs, the Treasurer shall develop guidelines to assist in identifying and
7 evaluating qualified minority business enterprises in order to help the Treasurer achieve
8 the objective for greater use of minority business enterprises for brokerage and investment
9 management services under this section.

10 (4) On or before September 1 each year, the Treasurer shall submit a report
11 to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to §
12 2-1257 of the State Government Article, the General Assembly on:

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

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

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

21 **(G) (1) THE TREASURER SHALL ADOPT REGULATIONS THAT ESTABLISH A**
22 **STATE INVESTMENT POLICY.**

23 **(2) THE STATE INVESTMENT POLICY SHALL SPECIFY THRESHOLDS**
24 **FOR THE MAXIMUM INVESTMENT IN EACH ASSET CLASS AUTHORIZED UNDER THIS**
25 **SECTION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That prior to the effective date of
27 this Act, the Treasurer shall:

28 (1) notify in writing the chief executive and governing body of each local
29 governmental unit required to have a local investment policy under § 17-205 of the Local
30 Government Article of the changes contained in this Act; and

31 (2) provide the local government with an opportunity to review, revise, and
32 report any changes in the local investment policies to the Treasurer, as appropriate.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the Treasurer shall adopt the
34 regulations required under Section 1 of this Act on or before December 1, 2023.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2023.