

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 776

(The President)(By Request - State Treasurer)

Budget and Taxation

Appropriations

**State Investment Portfolio and Local Government Investment Guidelines -
Investment Standards**

This emergency bill repeals provisions relating to the type of asset classes that the State Treasurer may invest and reinvest specified unexpended or surplus funds and requires the State Treasurer to adopt regulations that specify the asset classes in which the State Treasurer may invest or reinvest funds according to the State investment policy. The bill specifies that these investments must be made in accordance with the limitations for the asset classes and thresholds established in regulations adopted by the State Treasurer. The bill requires the State Treasurer to consult with local governmental entities prior to adopting regulations that would alter the types of investments in which these entities may invest public money. Following the adoption of regulations amending the local investment guidelines under the bill, the State Treasurer must notify in writing the governing body of each local governmental entity required to have a local investment policy under § 17-205 of the Local Government Article. The State Treasurer must also provide the local government with an opportunity to review, revise, and report any changes in the local investment policies, as appropriate. **The State Treasurer must adopt regulations under the bill by December 1, 2024.**

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations. The State Treasurer's Office can adopt regulations and notify local governments of the changes to the State investment policy with existing resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes the State Treasurer to retain investments made prior to the effective date of the bill until the investments have reached their maturity dates. The bill authorizes the State Treasurer to continue investing or reinvesting surplus funds in compliance with the current State investment policy until the effective date of the regulations amending the State investment policy are adopted by the State Treasurer.

The bill also authorizes specified local governmental entities to continue investing or reinvesting surplus funds in compliance with the current local government investment guidelines until the effective date of the regulations amending the local government investment guidelines are adopted by the State Treasurer.

Current Law: The State Treasurer may invest or reinvest unexpended or surplus money in:

- an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;
- an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;
- an obligation issued and unconditionally guaranteed by a supranational issuer;
- a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies, or instrumentalities;
- bankers' acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the U.S. Securities and Exchange Commission (SEC) or the State Treasurer;
- with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the SEC issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this item;
- commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the SEC;
- money market mutual funds with certain restrictions; and
- any investment portfolio created under the Maryland Local Government Investment Pool.

The State Treasurer is required to report to the General Assembly annually by January 3 on investment activities. At a minimum, the report must contain the following information for general fund investments and all other investments:

- the inventory of investments with maturity dates and the book and market value as of June 30;
- the earned net income;
- the percentage share of each category of investment in the portfolio; and
- sales of investments prior to the maturity date.

The State Treasurer is required to make investments with care, skill, prudence, and diligence with due regard for minimizing risk while maximizing return. The State Treasurer must use competitive purchasing practices except when impractical. Investments must reasonably match the State's cash flow so that sufficient funds are available to pay obligations as they become due. The State Treasurer must also maintain a reasonable amount of cash on hand for unanticipated needs. Investments must be made accordance with a written investment policy, and they must be made so that securities and collateral may be priced on a market-to-market basis. The State Treasurer must also avoid the enhancement of his/her personal financial position and avoid enhancing the personal financial positions of employees who are responsible for managing investments with State funds.

The State Treasurer must attempt to use minority business enterprises for brokerage and investment management services for its investments to the greatest extent feasible. Local governments are required to establish and follow an investment policy for specified public funds that is consistent with guidelines established by the State Treasurer. For this requirement, local government includes Baltimore City, counties, municipalities, community colleges, the Washington Suburban Sanitary Commission, public corporations, and authorities of the State that issue debt. Investments by a board of education and a library board must comply with the respective county local investment policy. The public funds subject to the required policy do not include revenues held as part of a pension fund, other postemployment fund, or trust fund account. Borrowing of funds for the express purpose of investing those funds is prohibited.

The Maryland Code of Regulations (COMAR) 25.03.03.03 requires that a local government investment policy meets or exceeds standards published by two nationally recognized financial organizations that are recognized by the State Treasurer: the Association of Public Treasurers of the United States and Canada; and the Government Finance Officers Association. COMAR 25.03.03.04 requires that local government units invest in only those types of securities authorized by State Finance and Procurement Article

§ 6-222(b), Local Government Article § 6-222, and the State investment policy adopted by the State Treasurer through regulations.

Chapters 115 and 116 of 2023

Chapters 115 and 116 of 2023 required the State Treasurer to adopt regulations establishing a State investment policy specifying thresholds for maximum investment in each asset class in which the State Treasurer is authorized to invest or reinvest unexpended or surplus money. The Acts also repealed the maximum threshold of 10% of total investments for investments the State Treasurer makes in the commercial paper asset class.

Chapters 115 and 116 required the State Treasurer to notify in writing the chief executive and governing body of each local governmental unit required to have a local investment policy under § 17-205 of the Local Government Article prior to the effective date of the Acts. The State Treasurer was also required to provide the local government with an opportunity to review, revise, and report any changes in the local investment policies, as appropriate.

Background: Under Maryland regulations adopted by the State Treasurer in accordance with Chapters 115 and 116, COMAR 25.03.04.01 provides that the purpose of Chapter .04 is to ensure prudent investment of public money in a manner that complies with applicable laws.

COMAR 25.03.04.02 defines terms used in the chapter. “Financial officer” has two meanings depending on whether it is used in reference to the State or to a local government unit. For the State, “financial officer” means the State’s Chief Investment Officer or another person authorized by the State Treasurer to invest unexpended or surplus money of which the Treasurer has custody. For a local government unit, “financial officer” means the State Treasurer or any other financial officer of a local government unit who is responsible for the investment of public money.

COMAR 25.03.04.03 requires a financial officer to make investments in a manner that is prudent, practical, and compliant with applicable laws and policies. A financial officer must avoid enriching both (1) their own personal wealth or (2) the personal financial position of employees who have responsibilities for the investment of public money.

COMAR 25.03.04.04 provides maximum percentages of an overall investment portfolio of public money that a financial officer may invest in certain asset classes. Under this regulation, a financial officer may invest 100% of an investment portfolio in obligation bonds from the U.S. government, obligation bonds from a federal entity issued in accordance with an act of Congress, or any investment portfolio created under the Maryland Local Government Investment Pool. Other asset classes have a variety of

maximum permissible percentages. For example, investments in money market mutual funds are capped at 50% while investments in commercial paper from highly rated entities are capped at 35%. Some of the percentage limits in this regulation set lower limits for investing in any single entity within an investment class.

COMAR 25.03.04.05 requires a financial officer to prioritize investing in securities with a high credit quality and marketability. Regulation .05 also prohibits a financial officer from investing in assets below a certain credit grade. The regulation also provides an emergency exception: in the event of a catastrophe that could dramatically shift credit ratings of any assets in the State investment portfolio, the State Treasurer may make investment decisions and approve requests from a local government unit to make investment decisions inconsistent with these regulations.

COMAR 25.03.04.06 authorizes the State Treasurer to adopt additional requirements for the State investment portfolio and for local governmental unit investment policies. If the State Treasurer implements additional requirements for local government units, the State Treasurer must (1) notify the local government units of the requirements and (2) post the new requirements on the office website.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the past three years.

Designated Cross File: HB 846 (The Speaker)(By Request - State Treasurer) - Appropriations.

Information Source(s): Baltimore, Frederick, and Montgomery counties; Maryland Municipal League; State Treasurer's Office; Department of Legislative Services

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