

Chapter 268

(House Bill 202)

AN ACT concerning

State Retirement ~~Agency~~ and Pension System – Authority to Arrange Custody of Investments and Procurement Exemption

FOR the purpose of exempting from certain procurement law expenditures made by the ~~State Retirement Agency~~ Board of Trustees for the State Retirement and Pension System for the safe custody of investments of the State Retirement and Pension System; transferring the authority to arrange for the safe custody of investments from the State Treasurer to the ~~Chief Investment Officer of the Investment Division in the Agency~~ Board of Trustees; providing for the application of this Act; and generally relating to the custody of investments of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(d)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–122(a)(1)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section ~~21–122(d)~~ 21–123 and 21–124
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

11–203.

(d) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Board of Trustees of the State Retirement and Pension System for:

(1) services of managers to invest the assets of the State Retirement and Pension System, including real and personal property;

(2) expenditures to manage, maintain, and enhance the value of the assets of the State Retirement and Pension System in accordance with investment guidelines adopted by the Board of Trustees;

(3) services related to the administration of the optional retirement program under Title 30 of the State Personnel and Pensions Article; [and]

(4) services related to the administration of the Postretirement Health Benefits Trust Fund; AND

(5) EXPENDITURES FOR THE SAFE CUSTODY, DOMESTIC OR GLOBAL, OF INVESTMENTS AS PROVIDED UNDER ~~§ 21-122(D)~~ § 21-123(F) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

Article – State Personnel and Pensions

~~21-122.~~

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

~~(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;~~
AND

~~(4) MAY MAKE ARRANGEMENTS FOR THE SAFE CUSTODY, DOMESTIC OR GLOBAL, OF INVESTMENTS WITH ONE OR MORE DULY QUALIFIED CUSTODIAN BANKS OR TRUST COMPANIES.~~

21-123.

(a) Except for those assets that the law requires another entity or person to control, the State Retirement Agency, under the supervision of the Board of Trustees, shall manage all assets of the several systems.

(b) The Board of Trustees:

(1) is deemed the owner of all the assets of the several systems; but

(2) may delegate some or all incidents of ownership to the State Retirement Agency to administer the investment portfolios of the several systems.

(c) (1) The Board of Trustees may invest assets of the several systems subject to the conditions that it imposes.

(2) The Board of Trustees shall include the conditions that it adopts under paragraph (1) of this subsection in the investment policy manual required by § 21-116(c) of this subtitle.

(d) (1) This subsection applies only to the execution of:

(i) ground rent redemption deeds;

(ii) releases or reassignments of mortgages; and

(iii) satisfactions or reassignments of notes conveying, releasing, or reassigning any interest owned by the State for the use of a fund of the several systems.

(2) An instrument must be executed by any two of:

(i) the State Treasurer;

(ii) the Executive Director of the State Retirement Agency;

(iii) the Chief Investment Officer of the State Retirement Agency; or

(iv) another employee of the State Retirement Agency as the Executive Director designates with the approval of the Board of Trustees.

(e) (1) The Board of Trustees may commingle assets of the several systems, including the Postretirement Health Benefits Trust Fund, if the Board of Trustees keeps separate sets of records for each State system or group of State systems listed in paragraph (2) of this subsection that show:

(i) the percentage of participation of each State system or group of State systems, including the Postretirement Health Benefits Trust Fund;

(ii) the percentage of income, gains, and losses applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund; and

(iii) the total contributions and disbursements applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund.

(2) The Board of Trustees shall keep records required by paragraph (1) of this subsection for each of the following:

(i) the group that consists of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, and the Legislative Pension Plan;

(ii) the Judges' Retirement System;

(iii) the Law Enforcement Officers' Pension System;

(iv) the State Police Retirement System;

(v) the group that consists of the Teachers' Pension System and the Teachers' Retirement System; and

(vi) the Postretirement Health Benefits Trust Fund.

(F) ON BEHALF OF THE SEVERAL SYSTEMS, THE BOARD OF TRUSTEES SHALL MAKE ARRANGEMENTS FOR THE SAFE CUSTODY, DOMESTIC OR GLOBAL, OF INVESTMENTS WITH ONE OR MORE DULY QUALIFIED CUSTODIAN BANKS OR TRUST COMPANIES.

[(f)] (G) (1) Notwithstanding any other law in force on or after July 1, 1988, unless the law makes specific reference to this subsection, and subject to paragraph (2) of this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations, papers, records, recommendations, and reports closed to public inspection until:

(i) the release of the information would not adversely affect the negotiation for or market price of a security; and

(ii) completion of:

1. a proposed purchase or program of purchases leading to a cumulative position in a security;

2. the making, sale, or prepayment of a loan;

3. any proposed sale or program of sales leading to the elimination of a position in a security; or

4. the sale or purchase of real estate.

(2) The sale or purchase of real estate shall be subject to the approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and Management, in their capacity as members of the Board of Trustees.

[(g)] (H) Any direct owned real estate purchased as an investment by the State Retirement and Pension System shall be managed by an external investment manager selected by the Chief Investment Officer.

[(h)] (I) Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or other disposition of any real or personal property acquired by the Board of Trustees in any transaction authorized under this title.

21–124.

(a) (1) The State Treasurer is the custodian of:

(i) the accumulation, annuity savings, and expense funds of the several systems; and

(ii) the assets of the Board of Trustees.

(2) The State Retirement Agency shall make all payments from the accumulation, annuity savings, and expense funds of the several systems in accordance with regulations that the Board of Trustees adopts with the approval of the State Treasurer.

(b) (1) The State Treasurer may make arrangements with one or more duly qualified banks or trust companies in this State, organized under the laws of this State or of the United States, for:

(i) [safe custody of investments;

(ii)] banking services; and

[(iii)] (II) any other function that the State Treasurer considers necessary to safeguard physically the assets that the Board of Trustees manages.

(2) The State Treasurer:

(i) may deposit any of the securities that the Board of Trustees purchases in vaults or in other safe depositories outside the office of the State Treasurer, whether or not in this State; and

(ii) shall deliver to the Board of Trustees a safekeeping receipt that:

1. describes the securities that the State Treasurer deposits;
and

2. is payable on demand and without conditions to the Board of Trustees, to any designated fund of the several systems that the Board of Trustees controls, or to the State Treasurer.

(3) The Board of Trustees shall keep on file any safekeeping receipt that the State Treasurer delivers.

(c) (1) Subject to paragraph (2) of this subsection, to make disbursements, the State Treasurer may keep cash on deposit in one or more duly qualified banks or trust companies in this State that are organized under the laws of this State or of the United States.

(2) The State Treasurer may not:

(i) keep more than 10% of the total amount in the funds of the several systems on deposit as cash; or

(ii) keep cash that exceeds 25% of the paid-up capital and surplus of the bank or trust company in that bank or trust company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract or amendments to any contracts resulting from a request for proposals for global custody services issued by the State Treasurer before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, April 18, 2017.