

Chapter 614

(Senate Bill 793)

AN ACT concerning

State Retirement and Pension System – Investments – Qualified Information Technology, Green Technology, Medical Device Technology, or Bioscience Businesses – Reporting

FOR the purpose of ~~requiring the Board of Trustees of the State Retirement and Pension System to invest a certain amount of the assets of the several systems of the State Retirement and Pension System within a certain period of time in certain venture capital funds focused on certain types of businesses; requiring certain venture capital funds to invest a certain amount of the assets of the several systems in certain types of businesses;~~ requiring the Board of Trustees to submit certain reports containing certain information on or before a certain date; providing for the termination of this Act; defining a certain ~~terms~~ term; and generally relating to reporting requirements of the Board of Trustees ~~investing for investments~~ of the assets of the several systems in qualified information technology, green technology, medical device technology, or bioscience businesses.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–123
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Maryland's existing initiatives to help bioscience companies are lagging in resources; and

WHEREAS, Maryland has no targeted public pension fund vehicle for addressing opportunities to invest in emerging bioscience companies; and

WHEREAS, This powerful combination of intellectual capital, federal research dollars, and a highly educated workforce has already positioned Maryland to be a leader in the industry; 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

21-123.

(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) ~~(H)~~ IN THIS SUBSECTION ~~THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(H)~~, “QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS” MEANS A BUSINESS THAT:

~~1.~~ (I) IS PRIMARILY ENGAGED IN:

~~A.~~ 1. MANUFACTURING, PROCESSING, OR ASSEMBLING INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE PRODUCTS;

~~B.~~ 2. CONDUCTING INFORMATION TECHNOLOGICAL, GREEN TECHNOLOGICAL, MEDICAL DEVICE TECHNOLOGICAL, OR BIOSCIENCE RESEARCH AND DEVELOPMENT; OR

~~C.~~ 3. PROVIDING INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE-RELATED SERVICES; AND

~~2.~~ (II) IS NOT PRIMARILY ENGAGED IN:

~~A.~~ 1. RETAIL SALES;

~~B.~~ 2. REAL ESTATE DEVELOPMENT;

~~C.~~ 3. THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

~~D. 4. THE PROVISION OF PROFESSIONAL SERVICES PROVIDED BY ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.~~

~~(III) "STATE BASED COMPANY" MEANS A COMPANY THAT:~~

~~1. IS HEADQUARTERED IN THE STATE AND INTENDS TO REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR IS HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT;~~

~~2. HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THE STATE AFTER RECEIPT OF THE INVESTMENT OR HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO RELOCATE BUSINESS OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER RECEIPT OF THE INVESTMENT;~~

~~3. HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY TO:~~

~~A. SUPPORT BUSINESS OPERATIONS IN THE STATE;~~
~~OR~~

~~B. IN THE CASE OF A START-UP COMPANY, ESTABLISH AND SUPPORT BUSINESS OPERATIONS IN THE STATE; AND~~

~~4. EITHER:~~

~~A. EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN THE STATE; OR~~

~~B. PAYS AT LEAST 80% OF ITS PAYROLL TO EMPLOYEES IN THE STATE.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, BEGINNING ON OR AFTER JULY 1, 2010, AND ENDING ON OR BEFORE JUNE 30, 2015, THE BOARD OF TRUSTEES SHALL INVEST \$50,000,000 IN VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES.~~

~~(3) ANY INVESTMENT MADE BY THE BOARD OF TRUSTEES UNDER PARAGRAPH (2) OF THIS SUBSECTION IN VENTURE CAPITAL FUNDS FOCUSING ON A QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL~~

~~DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS MAY NOT EXCEED 10% OF THE TOTAL AMOUNT OF ALL FUNDING RECEIVED BY THAT VENTURE CAPITAL FUND.~~

~~(4)~~ (2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(I) A LIST OF VENTURE CAPITAL FUNDS FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES IN WHICH THE BOARD OF TRUSTEES HAS SEVERAL SYSTEMS HAVE INVESTED AND THE AMOUNT INVESTED IN EACH VENTURE CAPITAL FUND;

~~(II) A LIST OF THE STATE-BASED COMPANIES IN WHICH THE VENTURE CAPITAL FUNDS HAVE INVESTED ASSETS OF THE SEVERAL SYSTEMS AND THE AMOUNT INVESTED IN EACH;~~

~~(III) THE INVESTMENT RETURNS ON EACH INVESTMENT MADE BY A VENTURE CAPITAL FUND FOCUSING ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESS; AND~~

~~(IV) RECOMMENDATIONS BY THE BOARD OF TRUSTEES TO IMPROVE THE METHODOLOGY UNDER WHICH THE BOARD OF TRUSTEES IS REQUIRED TO INVEST IN VENTURE CAPITAL FUNDS FOCUSED ON QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES.~~

(II) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS OF THE SEVERAL SYSTEMS INVESTED IN COMPANIES HEADQUARTERED IN THE STATE BY ALL VENTURE CAPITAL FUNDS IN WHICH THE SEVERAL SYSTEMS HAVE MADE AN INVESTMENT; AND

(III) A STATEMENT OF THE AGGREGATE AMOUNT OF ASSETS OF THE SEVERAL SYSTEMS INVESTED IN EACH OF THE QUALIFIED INFORMATION TECHNOLOGY, GREEN TECHNOLOGY, MEDICAL DEVICE TECHNOLOGY, OR BIOSCIENCE BUSINESSES BY ALL VENTURE CAPITAL FUNDS IN WHICH THE SEVERAL SYSTEMS HAVE MADE AN INVESTMENT.

~~[(c)] (D)~~ (1) ~~[(The) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, 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)] (E)~~ (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)] (F)~~ (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 seven sets of records 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 Local Fire and Police System;

(iv) the Law Enforcement Officers' Pension System;

(v) the State Police Retirement System;

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

(vii) the Postretirement Health Benefits Trust Fund.

[(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) (i) 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.

(ii) On or before October 1 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Board of Public Works, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides a list of all sales or purchases of directly held real estate approved by the Board of Trustees for the immediately preceding fiscal year.

[(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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.