

AN ACT concerning public employee benefits.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by changing Section 1-110.16 and by adding Section 1-110.17 as follows:

(40 ILCS 5/1-110.16)

Sec. 1-110.16. Transactions prohibited by retirement systems; companies that boycott Israel, for-profit companies that contract to shelter migrant children, Iran-restricted companies, Sudan-restricted companies, and expatriated entities.

(a) As used in this Section:

"Boycott Israel" means engaging in actions that are politically motivated and are intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the State of Israel or companies based in the State of Israel or in territories controlled by the State of Israel.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business

association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

"Contract to shelter migrant children" means entering into a contract with the federal government to shelter migrant children under the federal Unaccompanied Alien Children Program or a substantially similar federal program.

"Illinois Investment Policy Board" means the board established under subsection (b) of this Section.

"Direct holdings" in a company means all publicly traded securities of that company that are held directly by the retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.

"Expatriated entity" has the meaning ascribed to it in Section 1-15.120 of the Illinois Procurement Code.

"Indirect holdings" in a company means all securities of that company that are held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the retirement system, in which the retirement system owns shares or interests together with other investors not subject to the provisions of this Section or that are held in an index fund.

"Iran-restricted company" means a company that meets

the qualifications under Section 1-110.15 of this Code.

"Private market fund" means any private equity fund, private equity funds of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicle that is not publicly traded.

"Restricted companies" means companies that boycott Israel, for-profit companies that contract to shelter migrant children, Iran-restricted companies, Sudan-restricted companies, and expatriated entities.

"Retirement system" means a retirement system established under Article 2, 14, 15, 16, or 18 of this Code or the Illinois State Board of Investment.

"Sudan-restricted company" means a company that meets the qualifications under Section 1-110.6 of this Code.

(b) There shall be established an Illinois Investment Policy Board. The Illinois Investment Policy Board shall consist of 7 members. Each board of a pension fund or investment board created under Article 15, 16, or 22A of this Code shall appoint one member, and the Governor shall appoint 4 members.

(c) Notwithstanding any provision of law to the contrary, beginning January 1, 2016, Sections 110.15 and 1-110.6 of this Code shall be administered in accordance with this Section.

(d) By April 1, 2016, the Illinois Investment Policy Board shall make its best efforts to identify all Iran-restricted companies, Sudan-restricted companies, and companies that

boycott Israel and assemble those identified companies into a list of restricted companies, to be distributed to each retirement system.

These efforts shall include the following, as appropriate in the Illinois Investment Policy Board's judgment:

(1) reviewing and relying on publicly available information regarding Iran-restricted companies, Sudan-restricted companies, and companies that boycott Israel, including information provided by nonprofit organizations, research firms, and government entities;

(2) contacting asset managers contracted by the retirement systems that invest in Iran-restricted companies, Sudan-restricted companies, and companies that boycott Israel;

(3) contacting other institutional investors that have divested from or engaged with Iran-restricted companies, Sudan-restricted companies, and companies that boycott Israel; and

(4) retaining an independent research firm to identify Iran-restricted companies, Sudan-restricted companies, and companies that boycott Israel.

The Illinois Investment Policy Board shall review the list of restricted companies on a quarterly basis based on evolving information from, among other sources, those listed in this subsection (d) and distribute any updates to the list of restricted companies to the retirement systems and the State

Treasurer.

By April 1, 2018, the Illinois Investment Policy Board shall make its best efforts to identify all expatriated entities and include those companies in the list of restricted companies distributed to each retirement system and the State Treasurer. These efforts shall include the following, as appropriate in the Illinois Investment Policy Board's judgment:

(1) reviewing and relying on publicly available information regarding expatriated entities, including information provided by nonprofit organizations, research firms, and government entities;

(2) contacting asset managers contracted by the retirement systems that invest in expatriated entities;

(3) contacting other institutional investors that have divested from or engaged with expatriated entities; and

(4) retaining an independent research firm to identify expatriated entities.

By July 1, 2022, the Illinois Investment Policy Board shall make its best efforts to identify all for-profit companies that contract to shelter migrant children and include those companies in the list of restricted companies distributed to each retirement system. These efforts shall include the following, as appropriate in the Illinois Investment Policy Board's judgment:

(1) reviewing and relying on publicly available

information regarding for-profit companies that contract to shelter migrant children, including information provided by nonprofit organizations, research firms, and government entities;

(2) contacting asset managers contracted by the retirement systems that invest in for-profit companies that contract to shelter migrant children;

(3) contacting other institutional investors that have divested from or engaged with for-profit companies that contract to shelter migrant children; and

(4) retaining an independent research firm to identify for-profit companies that contract to shelter migrant children.

(e) The Illinois Investment Policy Board shall adhere to the following procedures for companies on the list of restricted companies:

(1) For each company newly identified in subsection (d), the Illinois Investment Policy Board shall send a written notice informing the company of its status and that it may become subject to divestment or shareholder activism by the retirement systems.

(2) If, following the Illinois Investment Policy Board's engagement pursuant to this subsection (e) with a restricted company, that company ceases activity that designates the company to be an Iran-restricted company, a Sudan-restricted company, a company that boycotts Israel,

~~or~~ an expatriated entity, or a for-profit company that contracts to shelter migrant children, the company shall be removed from the list of restricted companies and the provisions of this Section shall cease to apply to it unless it resumes such activities.

(f) Except as provided in subsection (f-1) of this Section the retirement system shall adhere to the following procedures for companies on the list of restricted companies:

(1) The retirement system shall identify those companies on the list of restricted companies in which the retirement system owns direct holdings and indirect holdings.

(2) The retirement system shall instruct its investment advisors to sell, redeem, divest, or withdraw all direct holdings of restricted companies from the retirement system's assets under management in an orderly and fiduciarily responsible manner within 12 months after the company's most recent appearance on the list of restricted companies.

(3) The retirement system may not acquire securities of restricted companies.

(4) The provisions of this subsection (f) do not apply to the retirement system's indirect holdings or private market funds. The Illinois Investment Policy Board shall submit letters to the managers of those investment funds containing restricted companies requesting that they

consider removing the companies from the fund or create a similar actively managed fund having indirect holdings devoid of the companies. If the manager creates a similar fund, the retirement system shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

(f-1) The retirement system shall adhere to the following procedures for restricted companies that are expatriated entities or for-profit companies that contract to shelter migrant children:

(1) To the extent that the retirement system believes that shareholder activism would be more impactful than divestment, the retirement system shall have the authority to engage with a restricted company prior to divesting.

(2) Subject to any applicable State or Federal laws, methods of shareholder activism utilized by the retirement system may include, but are not limited to, bringing shareholder resolutions and proxy voting on shareholder resolutions.

(3) The retirement system shall report on its shareholder activism and the outcome of such efforts to the Illinois Investment Policy Board by April 1 of each year.

(4) If the engagement efforts of the retirement system are unsuccessful, then it shall adhere to the procedures

under subsection (f) of this Section.

(g) Upon request, and by April 1 of each year, each retirement system shall provide the Illinois Investment Policy Board with information regarding investments sold, redeemed, divested, or withdrawn in compliance with this Section.

(h) Notwithstanding any provision of this Section to the contrary, a retirement system may cease divesting from companies pursuant to subsection (f) if clear and convincing evidence shows that the value of investments in such companies becomes equal to or less than 0.5% of the market value of all assets under management by the retirement system. For any cessation of divestment authorized by this subsection (h), the retirement system shall provide a written notice to the Illinois Investment Policy Board in advance of the cessation of divestment, setting forth the reasons and justification, supported by clear and convincing evidence, for its decision to cease divestment under subsection (f).

(i) The cost associated with the activities of the Illinois Investment Policy Board shall be borne by the boards of each pension fund or investment board created under Article 15, 16, or 22A of this Code.

(j) With respect to actions taken in compliance with this Section, including all good-faith determinations regarding companies as required by this Section, the retirement system and Illinois Investment Policy Board are exempt from any conflicting statutory or common law obligations, including any

fiduciary duties under this Article and any obligations with respect to choice of asset managers, investment funds, or investments for the retirement system's securities portfolios.

(k) It is not the intent of the General Assembly in enacting this amendatory Act of the 99th General Assembly to cause divestiture from any company based in the United States of America. The Illinois Investment Policy Board shall consider this intent when developing or reviewing the list of restricted companies.

(l) If any provision of this amendatory Act of the 99th General Assembly or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this amendatory Act of the 99th General Assembly that can be given effect without the invalid provision or application.

~~(m) If any provision of Public Act 100-551 this amendatory Act of the 100th General Assembly or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of Public Act 100-551 this amendatory Act of the 100th General Assembly that can be given effect without the invalid provision or application.~~

If any provision of this amendatory Act of the 102nd General Assembly or its application to any person or circumstance is held invalid, the invalidity of that provision

or application does not affect other provisions or applications of this amendatory Act of the 102nd General Assembly that can be given effect without the invalid provision or application.

(Source: P.A. 99-128, eff. 7-23-15; 100-551, eff. 1-1-18.)

(40 ILCS 5/1-110.17 new)

Sec. 1-110.17. Expiration of prohibited transactions. If, at least 4 years after the effective date of an amendatory Act that initially establishes a prohibited transaction under this Article, the Illinois Investment Policy Board concludes that divestment is no longer necessary due to achievement of the underlying goals of the amendatory Act establishing the prohibited transaction, changes in status surrounding the prohibited transactions, or other verifiable reasons, the Illinois Investment Policy Board may cease actions to require divestment, identify restricted companies, or prohibit transactions by a majority vote of the Illinois Investment Policy Board if: (1) no less than one year prior to the change in policy, the Illinois Investment Policy Board notifies, in writing, the General Assembly of the change in policy and lists the reasons for changing the policy; and (2) the General Assembly does not, before the change in policy, adopt a House Resolution or a Senate Resolution instructing the Illinois Investment Policy Board to not change the policy.

Section 99. Effective date. This Act takes effect upon

Public Act 102-0118

HB0232 Enrolled

LRB102 05177 RPS 15198 b

becoming law.