

SB3545



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3545

Introduced 2/16/2018, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-110.16

Amends the General Provisions Article of the Illinois Pension Code. Requires the Illinois Investment Policy Board to make its best efforts to identify all major opioid manufacturers and include those companies in the list of restricted companies distributed to each retirement system and the Illinois State Board of Investment.

LRB100 20745 MJP 36224 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

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

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

6 (40 ILCS 5/1-110.16)

7 Sec. 1-110.16. Transactions prohibited by retirement
8 systems; companies that boycott Israel, Iran-restricted
9 companies, major opioid manufacturers, Sudan-restricted
10 companies, and expatriated entities.

11 (a) As used in this Section:

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

18 "Company" means any sole proprietorship, organization,
19 association, corporation, partnership, joint venture,
20 limited partnership, limited liability partnership,
21 limited liability company, or other entity or business
22 association, including all wholly owned subsidiaries,
23 majority-owned subsidiaries, parent companies, or

1 affiliates of those entities or business associations,
2 that exist for the purpose of making profit.

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

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

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

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

19 "Iran-restricted company" means a company that meets
20 the qualifications under Section 1-110.15 of this Code.

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

25 "Major opioid manufacturers" includes any company that
26 is identified by the Illinois Investment Policy Board as

1 being a major opioid manufacturer.

2 "Restricted companies" means companies that boycott
3 Israel, Iran-restricted companies, major opioid
4 manufacturers, Sudan-restricted companies, and expatriated
5 entities.

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

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

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

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

20 (d) By April 1, 2016, the Illinois Investment Policy Board
21 shall make its best efforts to identify all Iran-restricted
22 companies, Sudan-restricted companies, and companies that
23 boycott Israel and assemble those identified companies into a
24 list of restricted companies, to be distributed to each
25 retirement system.

26 These efforts shall include the following, as appropriate

1 in the Illinois Investment Policy Board's judgment:

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

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

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

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

18 By July 1, 2019, the Illinois Investment Policy Board shall
19 make its best efforts to identify all major opioid
20 manufacturers and include those companies in the list of
21 restricted companies distributed to each retirement system.
22 These efforts shall include the following, as appropriate in
23 the Illinois Investment Policy Board's judgment:

24 (1) reviewing and relying on publicly available
25 information regarding major opioid manufacturers,
26 including information provided by nonprofit organizations,

1 research firms, and government entities;

2 (2) contacting asset managers contracted by the
3 retirement systems that invest in major opioid
4 manufacturers; and

5 (3) contacting other institutional investors that have
6 divested from or engaged with major opioid manufacturers.

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

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

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

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

26 (3) contacting other institutional investors that have

1 divested from or engaged with expatriated entities; and

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

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

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

12 (2) If, following the Illinois Investment Policy
13 Board's engagement pursuant to this subsection (e) with a
14 restricted company, that company ceases activity that
15 designates the company to be an Iran-restricted company, a
16 Sudan-restricted company, a company that boycotts Israel,
17 or an expatriated entity, the company shall be removed from
18 the list of restricted companies and the provisions of this
19 Section shall cease to apply to it unless it resumes such
20 activities.

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

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

1 holdings.

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

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

11 (4) The provisions of this subsection (f) do not apply
12 to the retirement system's indirect holdings or private
13 market funds. The Illinois Investment Policy Board shall
14 submit letters to the managers of those investment funds
15 containing restricted companies requesting that they
16 consider removing the companies from the fund or create a
17 similar actively managed fund having indirect holdings
18 devoid of the companies. If the manager creates a similar
19 fund, the retirement system shall replace all applicable
20 investments with investments in the similar fund in an
21 expedited timeframe consistent with prudent investing
22 standards.

23 (f-1) The retirement system shall adhere to the following
24 procedures for restricted companies that are expatriated
25 entities:

26 (1) To the extent that the retirement system believes

1 that shareholder activism would be more impactful than
2 divestment, the retirement system shall have the authority
3 to engage with a restricted company prior to divesting.

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

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

12 (4) If the engagement efforts of the retirement system
13 are unsuccessful, then it shall adhere to the procedures
14 under subsection (f) of this Section.

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

19 (h) Notwithstanding any provision of this Section to the
20 contrary, a retirement system may cease divesting from
21 companies pursuant to subsection (f) if clear and convincing
22 evidence shows that the value of investments in such companies
23 becomes equal to or less than 0.5% of the market value of all
24 assets under management by the retirement system. For any
25 cessation of divestment authorized by this subsection (h), the
26 retirement system shall provide a written notice to the

1 Illinois Investment Policy Board in advance of the cessation of
2 divestment, setting forth the reasons and justification,
3 supported by clear and convincing evidence, for its decision to
4 cease divestment under subsection (f).

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

9 (j) With respect to actions taken in compliance with this
10 Section, including all good-faith determinations regarding
11 companies as required by this Section, the retirement system
12 and Illinois Investment Policy Board are exempt from any
13 conflicting statutory or common law obligations, including any
14 fiduciary duties under this Article and any obligations with
15 respect to choice of asset managers, investment funds, or
16 investments for the retirement system's securities portfolios.

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

23 (l) If any provision of this amendatory Act of the 99th
24 General Assembly or its application to any person or
25 circumstance is held invalid, the invalidity of that provision
26 or application does not affect other provisions or applications

1 of this amendatory Act of the 99th General Assembly that can be
2 given effect without the invalid provision or application.

3 (m) If any provision of this amendatory Act of the 100th
4 General Assembly or its application to any person or
5 circumstance is held invalid, the invalidity of that provision
6 or application does not affect other provisions or applications
7 of this amendatory Act of the 100th General Assembly that can
8 be given effect without the invalid provision or application.

9 (n) If any provision of this amendatory Act of the 100th
10 General Assembly or its application to any person or
11 circumstance is held invalid, the invalidity of that provision
12 or application does not affect other provisions or applications
13 of this amendatory Act of the 100th General Assembly that can
14 be given effect without the invalid provision or application.

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