

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 adding Sections 1-15.120 and 50-17 as follows:

6 (30 ILCS 500/1-15.120 new)

7 Sec. 1-15.120. Expatriated entity. "Expatriated entity"
8 means a foreign incorporated entity which is treated as an
9 inverted domestic corporation under subsection (b) of Section
10 835 of the Homeland Security Act of 2002, 6 U.S.C. 395(b), or
11 any subsidiary of such an entity. The Federal regulations found
12 at 26 CFR 1.7874-3 may be used to determine when 6 U.S.C.
13 395(b) (3) applies.

14 (30 ILCS 500/50-17 new)

15 Sec. 50-17. Expatriated entities.

16 (a) Except as provided in subsection (b) of this Section,
17 no business or member of a unitary business group, as defined
18 in the Illinois Income Tax Act, shall submit a bid for or enter
19 into a contract with a State agency under this Code if that
20 business or any member of the unitary business group is an
21 expatriated entity.

22 (b) An expatriated entity or a member of a unitary business

1 group with an expatriated entity as a member may submit a bid
2 for or enter into a contract with a State agency under this
3 Code if the appropriate chief procurement officer determines
4 that either of the following apply:

5 (1) the contract is awarded as a sole source
6 procurement under Section 20-25 of this Code, provided that
7 the appropriate chief procurement officer (i) includes in
8 the notice of intent to enter into a sole source contract a
9 prominent statement that the intended sole source
10 contractor is an expatriated entity and (ii) holds a public
11 hearing at which the chief procurement officer and
12 purchasing agency present written justification for the
13 use of a sole source contract with an expatriated entity
14 and any member of the public may present testimony; or

15 (2) the purchase is of pharmaceutical products, drugs,
16 biologics, vaccines, medical supplies, or devices used to
17 provide medical and health care or treat disease or used in
18 medical or research diagnostic tests, and medical
19 nutritionals regulated by the Food and Drug Administration
20 under the Federal Food, Drug, and Cosmetic Act.

21 Section 10. The Illinois Pension Code is amended by
22 changing Section 1-110.16 as follows:

23 (40 ILCS 5/1-110.16)

24 Sec. 1-110.16. Transactions prohibited by retirement

1 systems; companies that boycott Israel, Iran-restricted
2 companies, ~~and~~ Sudan-restricted companies, and expatriated
3 entities.

4 (a) As used in this Section:

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

11 "Company" means any sole proprietorship, organization,
12 association, corporation, partnership, joint venture,
13 limited partnership, limited liability partnership,
14 limited liability company, or other entity or business
15 association, including all wholly owned subsidiaries,
16 majority-owned subsidiaries, parent companies, or
17 affiliates of those entities or business associations,
18 that exist for the purpose of making profit.

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

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

26 "Expatriated entity" has the meaning ascribed to it in

1 Section 1-15.120 of the Illinois Procurement Code.

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

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

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

15 "Restricted companies" means companies that boycott
16 Israel, Iran-restricted companies, ~~and~~ Sudan-restricted
17 companies, and expatriated entities.

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

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

23 (b) There shall be established an Illinois Investment
24 Policy Board. The Illinois Investment Policy Board shall
25 consist of 7 members. Each board of a pension fund or
26 investment board created under Article 15, 16, or 22A of this

1 Code shall appoint one member, and the Governor shall appoint 4
2 members.

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

6 (d) By April 1, 2016, the Illinois Investment Policy Board
7 shall make its best efforts to identify all Iran-restricted
8 companies, Sudan-restricted companies, and companies that
9 boycott Israel and assemble those identified companies into a
10 list of restricted companies, to be distributed to each
11 retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) The retirement system shall instruct its
26 investment advisors to sell, redeem, divest, or withdraw

1 all direct holdings of restricted companies from the
2 retirement system's assets under management in an orderly
3 and fiduciarily responsible manner within 12 months after
4 the company's most recent appearance on the list of
5 restricted companies.

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

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

20 (f-1) The retirement system shall adhere to the following
21 procedures for restricted companies that are expatriated
22 entities:

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

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

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

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

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

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

1 supported by clear and convincing evidence, for its decision to
2 cease divestment under subsection (f).

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

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

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

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

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

7 (Source: P.A. 99-128, eff. 7-23-15.)