



Sen. Chuck Weaver

Filed: 4/11/2018

10000SB2767sam001

LRB100 17635 RPS 38080 a

1 AMENDMENT TO SENATE BILL 2767

2 AMENDMENT NO. _____. Amend Senate Bill 2767 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 1-109.1, 1-110, 1-110.6, 1-113.1, 1-113.4a,
6 1-113.5, 1-113.14, 1-113.16, 1-113.20, and 1-150 as follows:

7 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

8 Sec. 1-109.1. Allocation and delegation of fiduciary
9 duties.

10 (1) Subject to the provisions of Section 22A-113 of this
11 Code and subsections (2) and (3) of this Section, the board of
12 trustees of a retirement system or pension fund established
13 under this Code may:

14 (a) Appoint one or more investment managers as
15 fiduciaries to manage (including the power to acquire and
16 dispose of) any assets of the retirement system or pension

1 fund; and

2 (b) Allocate duties among themselves and designate
3 others as fiduciaries to carry out specific fiduciary
4 activities other than the management of the assets of the
5 retirement system or pension fund.

6 (2) The board of trustees of a pension fund established
7 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
8 transfer its investment authority, nor transfer the assets of
9 the fund to any other person or entity for the purpose of
10 consolidating or merging its assets and management with any
11 other pension fund or public investment authority, unless the
12 board resolution authorizing such transfer is submitted for
13 approval to the contributors and pensioners of the fund at
14 elections held not less than 30 days after the adoption of such
15 resolution by the board, and such resolution is approved by a
16 majority of the votes cast on the question in both the
17 contributors election and the pensioners election. The
18 election procedures and qualifications governing the election
19 of trustees shall govern the submission of resolutions for
20 approval under this paragraph, insofar as they may be made
21 applicable.

22 (3) Pursuant to subsections (h) and (i) of Section 6 of
23 Article VII of the Illinois Constitution, the investment
24 authority of boards of trustees of retirement systems and
25 pension funds established under this Code is declared to be a
26 subject of exclusive State jurisdiction, and the concurrent

1 exercise by a home rule unit of any power affecting such
2 investment authority is hereby specifically denied and
3 preempted.

4 (4) For the purposes of this Code, "emerging investment
5 manager" means a qualified investment adviser that manages an
6 investment portfolio of at least \$10,000,000 but less than
7 \$10,000,000,000 and is a "minority-owned business",
8 "women-owned business" or "business owned by a person with a
9 disability" as those terms are defined in the Business
10 Enterprise for Minorities, Women, and Persons with
11 Disabilities Act.

12 It is hereby declared to be the public policy of the State
13 of Illinois to encourage the trustees of public employee
14 retirement systems, pension funds, and investment boards to use
15 emerging investment managers in managing their system's
16 assets, encompassing all asset classes, and increase the
17 racial, ethnic, and gender diversity of its fiduciaries, to the
18 greatest extent feasible within the bounds of financial and
19 fiduciary prudence, and to take affirmative steps to remove any
20 barriers to the full participation in investment opportunities
21 afforded by those retirement systems, pension funds, and
22 investment boards.

23 On or before January 1, 2010, a retirement system, pension
24 fund, or investment board subject to this Code, except those
25 under Article 3 or 4 ~~whose investments are restricted by~~
26 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets

1 forth goals for utilization of emerging investment managers.
2 This policy shall include quantifiable goals for the management
3 of assets in specific asset classes by emerging investment
4 managers. The retirement system, pension fund, or investment
5 board shall establish 3 separate goals for: (i) emerging
6 investment managers that are minority-owned businesses; (ii)
7 emerging investment managers that are women-owned businesses;
8 and (iii) emerging investment managers that are businesses
9 owned by a person with a disability. The goals established
10 shall be based on the percentage of total dollar amount of
11 investment service contracts let to minority-owned businesses,
12 women-owned businesses, and businesses owned by a person with a
13 disability, as those terms are defined in the Business
14 Enterprise for Minorities, Women, and Persons with
15 Disabilities Act. The retirement system, pension fund, or
16 investment board shall annually review the goals established
17 under this subsection.

18 If in any case an emerging investment manager meets the
19 criteria established by a board for a specific search and meets
20 the criteria established by a consultant for that search, then
21 that emerging investment manager shall receive an invitation by
22 the board of trustees, or an investment committee of the board
23 of trustees, to present his or her firm for final consideration
24 of a contract. In the case where multiple emerging investment
25 managers meet the criteria of this Section, the staff may
26 choose the most qualified firm or firms to present to the

1 board.

2 The use of an emerging investment manager does not
3 constitute a transfer of investment authority for the purposes
4 of subsection (2) of this Section.

5 (5) Each retirement system, pension fund, or investment
6 board subject to this Code, except those under Article 3 or 4
7 ~~whose investments are restricted by Section 1-113.2~~ of this
8 Code, shall establish a policy that sets forth goals for
9 increasing the racial, ethnic, and gender diversity of its
10 fiduciaries, including its consultants and senior staff. Each
11 system, fund, and investment board shall annually review the
12 goals established under this subsection.

13 (6) On or before January 1, 2010, a retirement system,
14 pension fund, or investment board subject to this Code, except
15 those under Article 3 or 4 ~~whose investments are restricted by~~
16 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
17 forth goals for utilization of businesses owned by minorities,
18 women, and persons with disabilities for all contracts and
19 services. The goals established shall be based on the
20 percentage of total dollar amount of all contracts let to
21 minority-owned businesses, women-owned businesses, and
22 businesses owned by a person with a disability, as those terms
23 are defined in the Business Enterprise for Minorities, Women,
24 and Persons with Disabilities Act. The retirement system,
25 pension fund, or investment board shall annually review the
26 goals established under this subsection.

1 (7) On or before January 1, 2010, a retirement system,
2 pension fund, or investment board subject to this Code, except
3 those under Article 3 or 4 ~~whose investments are restricted by~~
4 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
5 forth goals for increasing the utilization of minority
6 broker-dealers. For the purposes of this Code, "minority
7 broker-dealer" means a qualified broker-dealer who meets the
8 definition of "minority-owned business", "women-owned
9 business", or "business owned by a person with a disability",
10 as those terms are defined in the Business Enterprise for
11 Minorities, Women, and Persons with Disabilities Act. The
12 retirement system, pension fund, or investment board shall
13 annually review the goals established under this Section.

14 (8) Each retirement system, pension fund, and investment
15 board subject to this Code, except those under Article 3 or 4
16 ~~whose investments are restricted by Section 1-113.2~~ of this
17 Code, shall submit a report to the Governor and the General
18 Assembly by January 1 of each year that includes the following:
19 (i) the policy adopted under subsection (4) of this Section,
20 including the names and addresses of the emerging investment
21 managers used, percentage of the assets under the investment
22 control of emerging investment managers for the 3 separate
23 goals, and the actions it has undertaken to increase the use of
24 emerging investment managers, including encouraging other
25 investment managers to use emerging investment managers as
26 subcontractors when the opportunity arises; (ii) the policy

1 adopted under subsection (5) of this Section; (iii) the policy
2 adopted under subsection (6) of this Section; (iv) the policy
3 adopted under subsection (7) of this Section, including
4 specific actions undertaken to increase the use of minority
5 broker-dealers; and (v) the policy adopted under subsection (9)
6 of this Section.

7 (9) On or before February 1, 2015, a retirement system,
8 pension fund, or investment board subject to this Code, except
9 those under Article 3 or 4 ~~whose investments are restricted by~~
10 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
11 forth goals for increasing the utilization of minority
12 investment managers. For the purposes of this Code, "minority
13 investment manager" means a qualified investment manager that
14 manages an investment portfolio and meets the definition of
15 "minority-owned business", "women-owned business", or
16 "business owned by a person with a disability", as those terms
17 are defined in the Business Enterprise for Minorities, Women,
18 and Persons with Disabilities Act.

19 It is hereby declared to be the public policy of the State
20 of Illinois to encourage the trustees of public employee
21 retirement systems, pension funds, and investment boards to use
22 minority investment managers in managing their systems'
23 assets, encompassing all asset classes, and to increase the
24 racial, ethnic, and gender diversity of their fiduciaries, to
25 the greatest extent feasible within the bounds of financial and
26 fiduciary prudence, and to take affirmative steps to remove any

1 barriers to the full participation in investment opportunities
2 afforded by those retirement systems, pension funds, and
3 investment boards.

4 The retirement system, pension fund, or investment board
5 shall establish 3 separate goals for: (i) minority investment
6 managers that are minority-owned businesses; (ii) minority
7 investment managers that are women-owned businesses; and (iii)
8 minority investment managers that are businesses owned by a
9 person with a disability. The retirement system, pension fund,
10 or investment board shall annually review the goals established
11 under this Section.

12 If in any case a minority investment manager meets the
13 criteria established by a board for a specific search and meets
14 the criteria established by a consultant for that search, then
15 that minority investment manager shall receive an invitation by
16 the board of trustees, or an investment committee of the board
17 of trustees, to present his or her firm for final consideration
18 of a contract. In the case where multiple minority investment
19 managers meet the criteria of this Section, the staff may
20 choose the most qualified firm or firms to present to the
21 board.

22 The use of a minority investment manager does not
23 constitute a transfer of investment authority for the purposes
24 of subsection (2) of this Section.

25 (10) Beginning January 1, 2016, it shall be the
26 aspirational goal for a retirement system, pension fund, or

1 investment board subject to this Code to use emerging
2 investment managers for not less than 20% of the total funds
3 under management. Furthermore, it shall be the aspirational
4 goal that not less than 20% of investment advisors be
5 minorities, women, and persons with disabilities as those terms
6 are defined in the Business Enterprise for Minorities, Women,
7 and Persons with Disabilities Act. It shall be the aspirational
8 goal to utilize businesses owned by minorities, women, and
9 persons with disabilities for not less than 20% of contracts
10 awarded for "information technology services", "accounting
11 services", "insurance brokers", "architectural and engineering
12 services", and "legal services" as those terms are defined in
13 the Act.

14 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

15 (40 ILCS 5/1-110) (from Ch. 108 1/2, par. 1-110)

16 Sec. 1-110. Prohibited Transactions.

17 (a) A fiduciary with respect to a retirement system,
18 pension fund, or investment board shall not cause the
19 retirement system or pension fund to engage in a transaction if
20 he or she knows or should know that such transaction
21 constitutes a direct or indirect:

22 (1) Sale or exchange, or leasing of any property from
23 the retirement system or pension fund to a party in
24 interest for less than adequate consideration, or from a
25 party in interest to a retirement system or pension fund

1 for more than adequate consideration.

2 (2) Lending of money or other extension of credit from
3 the retirement system or pension fund to a party in
4 interest without the receipt of adequate security and a
5 reasonable rate of interest, or from a party in interest to
6 a retirement system or pension fund with the provision of
7 excessive security or an unreasonably high rate of
8 interest.

9 (3) Furnishing of goods, services or facilities from
10 the retirement system or pension fund to a party in
11 interest for less than adequate consideration, or from a
12 party in interest to a retirement system or pension fund
13 for more than adequate consideration.

14 (4) Transfer to, or use by or for the benefit of, a
15 party in interest of any assets of a retirement system or
16 pension fund for less than adequate consideration.

17 (b) A fiduciary with respect to a retirement system or
18 pension fund established under this Code shall not:

19 (1) Deal with the assets of the retirement system or
20 pension fund in his own interest or for his own account;

21 (2) In his individual or any other capacity act in any
22 transaction involving the retirement system or pension
23 fund on behalf of a party whose interests are adverse to
24 the interests of the retirement system or pension fund or
25 the interests of its participants or beneficiaries; or

26 (3) Receive any consideration for his own personal

1 account from any party dealing with the retirement system
2 or pension fund in connection with a transaction involving
3 the assets of the retirement system or pension fund.

4 (c) Nothing in this Section shall be construed to prohibit
5 any trustee from:

6 (1) Receiving any benefit to which he may be entitled
7 as a participant or beneficiary in the retirement system or
8 pension fund.

9 (2) Receiving any reimbursement of expenses properly
10 and actually incurred in the performance of his duties with
11 the retirement system or pension fund.

12 (3) Serving as a trustee in addition to being an
13 officer, employee, agent or other representative of a party
14 in interest.

15 (d) A fiduciary of a pension fund established under Article
16 3 or 4 shall not knowingly cause or advise the pension fund to
17 engage in an investment transaction when the fiduciary (i) has
18 any direct interest in the income, gains, or profits of the
19 investment adviser through which the investment transaction is
20 made or (ii) has a business relationship with that investment
21 adviser that would result in a pecuniary benefit to the
22 fiduciary as a result of the investment transaction.

23 Violation of this subsection (d) is a Class 4 felony.

24 (e) A board member, employee, or consultant with respect to
25 a retirement system, pension fund, or investment board subject
26 to this Code, except those under Article 3 or 4 ~~whose~~

1 ~~investments are restricted by Section 1-113.2,~~ shall not
2 knowingly cause or advise the retirement system, pension fund,
3 or investment board to engage in an investment transaction with
4 an investment adviser when the board member, employee,
5 consultant, or their spouse (i) has any direct interest in the
6 income, gains, or profits of the investment adviser through
7 which the investment transaction is made or (ii) has a
8 relationship with that investment adviser that would result in
9 a pecuniary benefit to the board member, employee, or
10 consultant or spouse of such board member, employee, or
11 consultant as a result of the investment transaction. For
12 purposes of this subsection (e), a consultant includes an
13 employee or agent of a consulting firm who has greater than
14 7.5% ownership of the consulting firm.

15 Violation of this subsection (e) is a Class 4 felony.

16 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

17 (40 ILCS 5/1-110.6)

18 Sec. 1-110.6. Transactions prohibited by retirement
19 systems; Republic of the Sudan.

20 (a) The Government of the United States has determined that
21 Sudan is a nation that sponsors terrorism and genocide. The
22 General Assembly finds that acts of terrorism have caused
23 injury and death to Illinois and United States residents who
24 serve in the United States military, and pose a significant
25 threat to safety and health in Illinois. The General Assembly

1 finds that public employees and their families, including
2 police officers and firefighters, are more likely than others
3 to be affected by acts of terrorism. The General Assembly finds
4 that Sudan continues to solicit investment and commercial
5 activities by forbidden entities, including private market
6 funds. The General Assembly finds that investments in forbidden
7 entities are inherently and unduly risky, not in the interests
8 of public pensioners and Illinois taxpayers, and against public
9 policy. The General Assembly finds that Sudan's capacity to
10 sponsor terrorism and genocide depends on or is supported by
11 the activities of forbidden entities. The General Assembly
12 further finds and re-affirms that the people of the State,
13 acting through their representatives, do not want to be
14 associated with forbidden entities, genocide, and terrorism.

15 (b) For purposes of this Section:

16 "Business operations" means maintaining, selling, or
17 leasing equipment, facilities, personnel, or any other
18 apparatus of business or commerce in the Republic of the Sudan,
19 including the ownership or possession of real or personal
20 property located in the Republic of the Sudan.

21 "Certifying company" means a company that (1) directly
22 provides asset management services or advice to a retirement
23 system or (2) as directly authorized or requested by a
24 retirement system (A) identifies particular investment options
25 for consideration or approval; (B) chooses particular
26 investment options; or (C) allocates particular amounts to be

1 invested. If no company meets the criteria set forth in this
2 paragraph, then "certifying company" shall mean the retirement
3 system officer who, as designated by the board, executes the
4 investment decisions made by the board, or, in the alternative,
5 the company that the board authorizes to complete the
6 certification as the agent of that officer.

7 "Company" is any entity capable of affecting commerce,
8 including but not limited to (i) a government, government
9 agency, natural person, legal person, sole proprietorship,
10 partnership, firm, corporation, subsidiary, affiliate,
11 franchisor, franchisee, joint venture, trade association,
12 financial institution, utility, public franchise, provider of
13 financial services, trust, or enterprise; and (ii) any
14 association thereof.

15 "Department" means the Public Pension Division of the
16 Department of Financial and Professional Regulation.

17 "Forbidden entity" means any of the following:

18 (1) The government of the Republic of the Sudan and any
19 of its agencies, including but not limited to political
20 units and subdivisions;

21 (2) Any company that is wholly or partially managed or
22 controlled by the government of the Republic of the Sudan
23 and any of its agencies, including but not limited to
24 political units and subdivisions;

25 (3) Any company (i) that is established or organized
26 under the laws of the Republic of the Sudan or (ii) whose

1 principal place of business is in the Republic of the
2 Sudan;

3 (4) Any company (i) identified by the Office of Foreign
4 Assets Control in the United States Department of the
5 Treasury as sponsoring terrorist activities in the
6 Republic of the Sudan; or (ii) fined, penalized, or
7 sanctioned by the Office of Foreign Assets Control in the
8 United States Department of the Treasury for any violation
9 of any United States rules and restrictions relating to the
10 Republic of the Sudan that occurred at any time following
11 the effective date of this Act;

12 (5) Any publicly traded company that is individually
13 identified by an independent researching firm that
14 specializes in global security risk and that has been
15 retained by a certifying company as provided in subsection
16 (c) of this Section as being a company that owns or
17 controls property or assets located in, has employees or
18 facilities located in, provides goods or services to,
19 obtains goods or services from, has distribution
20 agreements with, issues credits or loans to, purchases
21 bonds or commercial paper issued by, or invests in (A) the
22 Republic of the Sudan; or (B) any company domiciled in the
23 Republic of the Sudan; and

24 (6) Any private market fund that fails to satisfy the
25 requirements set forth in subsections (d) and (e) of this
26 Section.

1 Notwithstanding the foregoing, the term "forbidden entity"
2 shall exclude (A) mutual funds that (i) are managed by an
3 investment company as defined and registered under the federal
4 Investment Company Act of 1940 and registered under the
5 Illinois Securities Law of 1953, (ii) have been in operation
6 for at least 5 years, (iii) have total net assets of
7 \$250,000,000 or more, and (iv) are comprised of diversified
8 portfolios of common or preferred stocks, bonds, or money
9 market instruments; ~~meet the requirements of item (iii) of~~
10 ~~paragraph (13) of Section 1-113.2~~ and (B) companies that
11 transact business in the Republic of the Sudan under the law,
12 license, or permit of the United States, including a license
13 from the United States Department of the Treasury, and
14 companies, except agencies of the Republic of the Sudan, who
15 are certified as Non-Government Organizations by the United
16 Nations, or who engage solely in (i) the provision of goods and
17 services intended to relieve human suffering or to promote
18 welfare, health, religious and spiritual activities, and
19 education or humanitarian purposes; or (ii) journalistic
20 activities.

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

25 "Republic of the Sudan" means those geographic areas of the
26 Republic of Sudan that are subject to sanction or other

1 restrictions placed on commercial activity imposed by the
2 United States Government due to an executive or congressional
3 declaration of genocide.

4 "Retirement system" means the State Employees' Retirement
5 System of Illinois, the Judges Retirement System of Illinois,
6 the General Assembly Retirement System, the State Universities
7 Retirement System, and the Teachers' Retirement System of the
8 State of Illinois.

9 (c) A retirement system shall not transfer or disburse
10 funds to, deposit into, acquire any bonds or commercial paper
11 from, or otherwise loan to or invest in any entity unless, as
12 provided in this Section, a certifying company certifies to the
13 retirement system that, (1) with respect to investments in a
14 publicly traded company, the certifying company has relied on
15 information provided by an independent researching firm that
16 specializes in global security risk and (2) 100% of the
17 retirement system's assets for which the certifying company
18 provides services or advice are not and have not been invested
19 or reinvested in any forbidden entity at any time after 4
20 months after the effective date of this Section.

21 The certifying company shall make the certification
22 required under this subsection (c) to a retirement system 6
23 months after the effective date of this Section and annually
24 thereafter. A retirement system shall submit the
25 certifications to the Department, and the Department shall
26 notify the Secretary of Financial and Professional Regulation

1 if a retirement system fails to do so.

2 (d) With respect to a commitment or investment made
3 pursuant to a written agreement executed prior to the effective
4 date of this Section, each private market fund shall submit to
5 the appropriate certifying company, at no additional cost to
6 the retirement system:

7 (1) an affidavit sworn under oath in which an expressly
8 authorized officer of the private market fund avers that
9 the private market fund (A) does not own or control any
10 property or asset located in the Republic of the Sudan and
11 (B) does not conduct business operations in the Republic of
12 the Sudan; or

13 (2) a certificate in which an expressly authorized
14 officer of the private market fund certifies that the
15 private market fund, based on reasonable due diligence, has
16 determined that, other than direct or indirect investments
17 in companies certified as Non-Government Organizations by
18 the United Nations, the private market fund has no direct
19 or indirect investment in any company (A) organized under
20 the laws of the Republic of the Sudan; (B) whose principal
21 place of business is in the Republic of the Sudan; or (C)
22 that conducts business operations in the Republic of the
23 Sudan. Such certificate shall be based upon the periodic
24 reports received by the private market fund, and the
25 private market fund shall agree that the certifying
26 company, directly or through an agent, or the retirement

1 system, as the case may be, may from time to time review
2 the private market fund's certification process.

3 (e) With respect to a commitment or investment made
4 pursuant to a written agreement executed after the effective
5 date of this Section, each private market fund shall, at no
6 additional cost to the retirement system:

7 (1) submit to the appropriate certifying company an
8 affidavit or certificate consistent with the requirements
9 pursuant to subsection (d) of this Section; or

10 (2) enter into an enforceable written agreement with
11 the retirement system that provides for remedies
12 consistent with those set forth in subsection (g) of this
13 Section if any of the assets of the retirement system shall
14 be transferred, loaned, or otherwise invested in any
15 company that directly or indirectly (A) has facilities or
16 employees in the Republic of the Sudan or (B) conducts
17 business operations in the Republic of the Sudan.

18 (f) In addition to any other penalties and remedies
19 available under the law of Illinois and the United States, any
20 transaction, other than a transaction with a private market
21 fund that is governed by subsections (g) and (h) of this
22 Section, that violates the provisions of this Act shall be
23 against public policy and voidable, at the sole discretion of
24 the retirement system.

25 (g) If a private market fund fails to provide the affidavit
26 or certification required in subsections (d) and (e) of this

1 Section, then the retirement system shall, within 90 days,
2 divest, or attempt in good faith to divest, the retirement
3 system's interest in the private market fund, provided that the
4 Board of the retirement system confirms through resolution that
5 the divestment does not have a material and adverse impact on
6 the retirement system. The retirement system shall immediately
7 notify the Department, and the Department shall notify all
8 other retirement systems, as soon as practicable, by posting
9 the name of the private market fund on the Department's
10 Internet website or through e-mail communications. No other
11 retirement system may enter into any agreement under which the
12 retirement system directly or indirectly invests in the private
13 market fund unless the private market fund provides that
14 retirement system with the affidavit or certification required
15 in subsections (d) and (e) of this Section and complies with
16 all other provisions of this Section.

17 (h) If a private market fund fails to fulfill its
18 obligations under any agreement provided for in paragraph (2)
19 of subsection (e) of this Section, the retirement system shall
20 immediately take legal and other action to obtain satisfaction
21 through all remedies and penalties available under the law and
22 the agreement itself. The retirement system shall immediately
23 notify the Department, and the Department shall notify all
24 other retirement systems, as soon as practicable, by posting
25 the name of the private market fund on the Department's
26 Internet website or through e-mail communications, and no other

1 retirement system may enter into any agreement under which the
2 retirement system directly or indirectly invests in the private
3 market fund.

4 (i) This Section shall have full force and effect during
5 any period in which the Republic of the Sudan, or the officials
6 of the government of that Republic, are subject to sanctions
7 authorized under any statute or executive order of the United
8 States or until such time as the State Department of the United
9 States confirms in the federal register or through other means
10 that the Republic of the Sudan is no longer subject to
11 sanctions by the government of the United States.

12 (j) If any provision of this Section or its application to
13 any person or circumstance is held invalid, the invalidity of
14 that provision or application does not affect other provisions
15 or applications of this Section that can be given effect
16 without the invalid provision or application.

17 (Source: P.A. 95-521, eff. 8-28-07.)

18 (40 ILCS 5/1-113.1)

19 Sec. 1-113.1. Investment authority of pension funds
20 established under Article 3 or 4. The board of trustees of a
21 police pension fund established under Article 3 of this Code or
22 firefighter pension fund established under Article 4 of this
23 Code shall draw pension funds from the treasurer of the
24 municipality and, beginning January 1, 1998, invest any part
25 thereof in the name of the board ~~in the items listed in~~

1 ~~Sections 1-113.2 through 1-113.4~~ according to the limitations
2 and requirements of this Article. These investments shall be
3 made with the care, skill, prudence, and diligence that a
4 prudent person acting in like capacity and familiar with such
5 matters would use in the conduct of an enterprise of like
6 character with like aims.

7 Interest and any other income from the investments shall be
8 credited to the pension fund.

9 ~~For the purposes of Sections 1-113.2 through 1-113.11, the~~
10 ~~"net assets" of a pension fund include both the cash and~~
11 ~~invested assets of the pension fund.~~

12 (Source: P.A. 90-507, eff. 8-22-97.)

13 (40 ILCS 5/1-113.4a)

14 Sec. 1-113.4a. Pension fund investments in common and
15 preferred stocks and mutual funds ~~List of additional permitted~~
16 ~~investments for Article 3 and 4 pension funds with net assets~~
17 ~~of \$10,000,000 or more.~~

18 (a) ~~A~~ ~~In addition to the items in Sections 1-113.2 and~~
19 ~~1-113.3,~~ a pension fund established under Article 3 or 4 that
20 ~~has net assets of at least \$10,000,000 and~~ has appointed an
21 investment adviser, as defined under Sections 1-101.4 and
22 1-113.5, may, through that investment adviser, invest an
23 additional portion of its assets in common and preferred stocks
24 and mutual funds.

25 (b) The stocks must meet all of the following requirements:

1 (1) The common stocks must be listed on a national
2 securities exchange or board of trade (as defined in the
3 Federal Securities Exchange Act of 1934 and set forth in
4 paragraph G of Section 3 of the Illinois Securities Law of
5 1953) or quoted in the National Association of Securities
6 Dealers Automated Quotation System National Market System.

7 (2) The securities must be of a corporation in
8 existence for at least 5 years.

9 (3) The market value of stock in any one corporation
10 may not exceed 5% of the cash and invested assets of the
11 pension fund, and the investments in the stock of any one
12 corporation may not exceed 5% of the total outstanding
13 stock of that corporation.

14 (4) The straight preferred stocks or convertible
15 preferred stocks must be issued or guaranteed by a
16 corporation whose common stock qualifies for investment by
17 the board.

18 (c) The mutual funds must meet the following requirements:

19 (1) The mutual fund must be managed by an investment
20 company registered under the Federal Investment Company
21 Act of 1940 and registered under the Illinois Securities
22 Law of 1953.

23 (2) The mutual fund must have been in operation for at
24 least 5 years.

25 (3) The mutual fund must have total net assets of
26 \$250,000,000 or more.

1 (4) The mutual fund must be comprised of a diversified
2 portfolio of common or preferred stocks, bonds, or money
3 market instruments.

4 (d) (Blank). ~~A pension fund's total investment in the items~~
5 ~~authorized under this Section and Section 1-113.3 shall not~~
6 ~~exceed 50% effective July 1, 2011 and 55% effective July 1,~~
7 ~~2012 of the market value of the pension fund's net present~~
8 ~~assets stated in its most recent annual report on file with the~~
9 ~~Department of Insurance.~~

10 (e) A pension fund that invests funds under this Section
11 shall electronically file with the Division any reports of its
12 investment activities that the Division may require, at the
13 time and in the format required by the Division.

14 (Source: P.A. 96-1495, eff. 1-1-11.)

15 (40 ILCS 5/1-113.5)

16 Sec. 1-113.5. Investment advisers and investment services
17 for all Article 3 or 4 pension funds.

18 (a) The board of trustees of a pension fund may appoint
19 investment advisers as defined in Section 1-101.4. ~~The board of~~
20 ~~any pension fund investing in common or preferred stock under~~
21 ~~Section 1-113.4 shall appoint an investment adviser before~~
22 ~~making such investments.~~

23 The investment adviser shall be a fiduciary, as defined in
24 Section 1-101.2, with respect to the pension fund and shall be
25 one of the following:

1 (1) an investment adviser registered under the federal
2 Investment Advisers Act of 1940 and the Illinois Securities
3 Law of 1953;

4 (2) a bank or trust company authorized to conduct a
5 trust business in Illinois;

6 (3) a life insurance company authorized to transact
7 business in Illinois; or

8 (4) an investment company as defined and registered
9 under the federal Investment Company Act of 1940 and
10 registered under the Illinois Securities Law of 1953.

11 (a-5) Notwithstanding any other provision of law, a person
12 or entity that provides consulting services (referred to as a
13 "consultant" in this Section) to a pension fund with respect to
14 the selection of fiduciaries may not be awarded a contract to
15 provide those consulting services that is more than 5 years in
16 duration. No contract to provide such consulting services may
17 be renewed or extended. At the end of the term of a contract,
18 however, the contractor is eligible to compete for a new
19 contract. No person shall attempt to avoid or contravene the
20 restrictions of this subsection by any means. All offers from
21 responsive offerors shall be accompanied by disclosure of the
22 names and addresses of the following:

23 (1) The offeror.

24 (2) Any entity that is a parent of, or owns a
25 controlling interest in, the offeror.

26 (3) Any entity that is a subsidiary of, or in which a

1 controlling interest is owned by, the offeror.

2 Beginning on July 1, 2008, a person, other than a trustee
3 or an employee of a pension fund or retirement system, may not
4 act as a consultant under this Section unless that person is at
5 least one of the following: (i) registered as an investment
6 adviser under the federal Investment Advisers Act of 1940 (15
7 U.S.C. 80b-1, et seq.); (ii) registered as an investment
8 adviser under the Illinois Securities Law of 1953; (iii) a
9 bank, as defined in the Investment Advisers Act of 1940; or
10 (iv) an insurance company authorized to transact business in
11 this State.

12 (b) All investment advice and services provided by an
13 investment adviser or a consultant appointed under this Section
14 shall be rendered pursuant to a written contract between the
15 investment adviser and the board, and in accordance with the
16 board's investment policy.

17 The contract shall include all of the following:

18 (1) acknowledgement in writing by the investment
19 adviser that he or she is a fiduciary with respect to the
20 pension fund;

21 (2) the board's investment policy;

22 (3) full disclosure of direct and indirect fees,
23 commissions, penalties, and any other compensation that
24 may be received by the investment adviser, including
25 reimbursement for expenses; and

26 (4) a requirement that the investment adviser submit

1 periodic written reports, on at least a quarterly basis,
2 for the board's review at its regularly scheduled meetings.
3 All returns on investment shall be reported as net returns
4 after payment of all fees, commissions, and any other
5 compensation.

6 (b-5) Each contract described in subsection (b) shall also
7 include (i) full disclosure of direct and indirect fees,
8 commissions, penalties, and other compensation, including
9 reimbursement for expenses, that may be paid by or on behalf of
10 the investment adviser or consultant in connection with the
11 provision of services to the pension fund and (ii) a
12 requirement that the investment adviser or consultant update
13 the disclosure promptly after a modification of those payments
14 or an additional payment.

15 Within 30 days after the effective date of this amendatory
16 Act of the 95th General Assembly, each investment adviser and
17 consultant providing services on the effective date or subject
18 to an existing contract for the provision of services must
19 disclose to the board of trustees all direct and indirect fees,
20 commissions, penalties, and other compensation paid by or on
21 behalf of the investment adviser or consultant in connection
22 with the provision of those services and shall update that
23 disclosure promptly after a modification of those payments or
24 an additional payment.

25 A person required to make a disclosure under subsection (d)
26 is also required to disclose direct and indirect fees,

1 commissions, penalties, or other compensation that shall or may
2 be paid by or on behalf of the person in connection with the
3 rendering of those services. The person shall update the
4 disclosure promptly after a modification of those payments or
5 an additional payment.

6 The disclosures required by this subsection shall be in
7 writing and shall include the date and amount of each payment
8 and the name and address of each recipient of a payment.

9 (c) Within 30 days after appointing an investment adviser
10 or consultant, the board shall submit a copy of the contract to
11 the Division of Insurance of the Department of Financial and
12 Professional Regulation.

13 (d) Investment services provided by a person other than an
14 investment adviser appointed under this Section, including but
15 not limited to services provided by the kinds of persons listed
16 in items (1) through (4) of subsection (a), shall be rendered
17 only after full written disclosure of direct and indirect fees,
18 commissions, penalties, and any other compensation that shall
19 or may be received by the person rendering those services.

20 (e) The board of trustees of each pension fund shall retain
21 records of investment transactions in accordance with the rules
22 of the Department of Financial and Professional Regulation.

23 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

24 (40 ILCS 5/1-113.14)

25 Sec. 1-113.14. Investment services for retirement systems,

1 pension funds, and investment boards, except those funds
2 established under Articles 3 and 4.

3 (a) For the purposes of this Section, "investment services"
4 means services provided by an investment adviser or a
5 consultant other than qualified fund-of-fund management
6 services as defined in Section 1-113.15.

7 (b) The selection and appointment of an investment adviser
8 or consultant for investment services by the board of a
9 retirement system, pension fund, or investment board subject to
10 this Code, except those under Article 3 or 4 ~~whose investments~~
11 ~~are restricted by Section 1-113.2~~, shall be made and awarded in
12 accordance with this Section. All contracts for investment
13 services shall be awarded by the board using a competitive
14 process that is substantially similar to the process required
15 for the procurement of professional and artistic services under
16 Article 35 of the Illinois Procurement Code. Each board of
17 trustees shall adopt a policy in accordance with this
18 subsection (b) within 60 days after the effective date of this
19 amendatory Act of the 96th General Assembly. The policy shall
20 be posted on its web site and filed with the Illinois
21 Procurement Policy Board. Exceptions to this Section are
22 allowed for (i) sole source procurements, (ii) emergency
23 procurements, (iii) at the discretion of the pension fund,
24 retirement system, or board of investment, contracts that are
25 nonrenewable and one year or less in duration, so long as the
26 contract has a value of less than \$20,000, and (iv) in the

1 discretion of the pension fund, retirement system, or
2 investment board, contracts for follow-on funds with the same
3 fund sponsor through closed-end funds. All exceptions granted
4 under this Section must be published on the system's, fund's,
5 or board's web site, shall name the person authorizing the
6 procurement, and shall include a brief explanation of the
7 reason for the exception.

8 A person, other than a trustee or an employee of a
9 retirement system, pension fund, or investment board, may not
10 act as a consultant or investment adviser under this Section
11 unless that person is registered as an investment adviser under
12 the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1,
13 et seq.) or a bank, as defined in the federal Investment
14 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

15 (c) Investment services provided by an investment adviser
16 or a consultant appointed under this Section shall be rendered
17 pursuant to a written contract between the investment adviser
18 or consultant and the board.

19 The contract shall include all of the following:

20 (1) Acknowledgement in writing by the investment
21 adviser or consultant that he or she is a fiduciary with
22 respect to the pension fund or retirement system.

23 (2) The description of the board's investment policy
24 and notice that the policy is subject to change.

25 (3) (i) Full disclosure of direct and indirect fees,
26 commissions, penalties, and other compensation, including

1 reimbursement for expenses, that may be paid by or on
2 behalf of the consultant in connection with the provision
3 of services to the pension fund or retirement system and
4 (ii) a requirement that the consultant update the
5 disclosure promptly after a modification of those payments
6 or an additional payment.

7 (4) A requirement that the investment adviser or
8 consultant, in conjunction with the board's staff, submit
9 periodic written reports, on at least a quarterly basis,
10 for the board's review at its regularly scheduled meetings.
11 All returns on investment shall be reported as net returns
12 after payment of all fees, commissions, and any other
13 compensation.

14 (5) Disclosure of the names and addresses of (i) the
15 consultant or investment adviser; (ii) any entity that is a
16 parent of, or owns a controlling interest in, the
17 consultant or investment adviser; (iii) any entity that is
18 a subsidiary of, or in which a controlling interest is
19 owned by, the consultant or investment adviser; (iv) any
20 persons who have an ownership or distributive income share
21 in the consultant or investment adviser that is in excess
22 of 7.5%; or (v) serves as an executive officer of the
23 consultant or investment adviser.

24 (6) A disclosure of the names and addresses of all
25 subcontractors, if applicable, and the expected amount of
26 money each will receive under the contract, including an

1 acknowledgment that the contractor must promptly make
2 notification, in writing, if at any time during the term of
3 the contract a contractor adds or changes any
4 subcontractors. For purposes of this subparagraph (6),
5 "subcontractor" does not include non-investment related
6 professionals or professionals offering services that are
7 not directly related to the investment of assets, such as
8 legal counsel, actuary, proxy-voting services, services
9 used to track compliance with legal standards, and
10 investment fund of funds where the board has no direct
11 contractual relationship with the investment advisers or
12 partnerships.

13 (7) A description of service to be performed.

14 (8) A description of the need for the service.

15 (9) A description of the plan for post-performance
16 review.

17 (10) A description of the qualifications necessary.

18 (11) The duration of the contract.

19 (12) The method for charging and measuring cost.

20 (d) Notwithstanding any other provision of law, a
21 retirement system, pension fund, or investment board subject to
22 this Code, except those under Article 3 or 4 ~~whose investments~~
23 ~~are restricted by Section 1-113.2~~ of this Code, shall not enter
24 into a contract with a consultant that exceeds 5 years in
25 duration. No contract to provide consulting services may be
26 renewed or extended. At the end of the term of a contract,

1 however, the consultant is eligible to compete for a new
2 contract as provided in this Section. No retirement system,
3 pension fund, or investment board shall attempt to avoid or
4 contravene the restrictions of this subsection (d) by any
5 means.

6 (e) Within 60 days after the effective date of this
7 amendatory Act of the 96th General Assembly, each investment
8 adviser or consultant currently providing services or subject
9 to an existing contract for the provision of services must
10 disclose to the board of trustees all direct and indirect fees,
11 commissions, penalties, and other compensation paid by or on
12 behalf of the investment adviser or consultant in connection
13 with the provision of those services and shall update that
14 disclosure promptly after a modification of those payments or
15 an additional payment. The person shall update the disclosure
16 promptly after a modification of those payments or an
17 additional payment. The disclosures required by this
18 subsection (e) shall be in writing and shall include the date
19 and amount of each payment and the name and address of each
20 recipient of a payment.

21 (f) The retirement system, pension fund, or board of
22 investment shall develop uniform documents that shall be used
23 for the solicitation, review, and acceptance of all investment
24 services. The form shall include the terms contained in
25 subsection (c) of this Section. All such uniform documents
26 shall be posted on the retirement system's, pension fund's, or

1 investment board's web site.

2 (g) A description of every contract for investment services
3 shall be posted in a conspicuous manner on the web site of the
4 retirement system, pension fund, or investment board. The
5 description must include the name of the person or entity
6 awarded a contract, the total amount applicable to the
7 contract, the total fees paid or to be paid, and a disclosure
8 approved by the board describing the factors that contributed
9 to the selection of an investment adviser or consultant.

10 (Source: P.A. 98-433, eff. 8-16-13.)

11 (40 ILCS 5/1-113.16)

12 Sec. 1-113.16. Investment transparency.

13 (a) The purpose of this Section is to provide for
14 transparency in the investment of retirement or pension funds
15 and require the reporting of full and complete information
16 regarding the investments by pension funds, retirement
17 systems, and investment boards.

18 (b) A retirement system, pension fund, or investment board
19 subject to this Code and any committees established by such
20 system, fund, or board must comply with the Open Meetings Act.

21 (c) Any retirement system, pension fund, or investment
22 board subject to this Code that establishes a committee shall
23 ensure that the majority of the members on such committee are
24 board members. If any member of a committee is not a member of
25 the board for the system, fund, or board, then that committee

1 member shall be a fiduciary.

2 (d) A retirement system, pension fund, or investment board
3 subject to this Code, except those under Article 3 or 4 ~~whose~~
4 ~~investments are restricted by Section 1-113.2~~, shall maintain
5 an official web site and make available in a clear and
6 conspicuous manner, and update at least quarterly, all of the
7 following information concerning the investment of funds:

8 (1) The total amount of funds held by the pension fund,
9 retirement system, or investment board.

10 (2) The asset allocation for the investments made by
11 the pension fund, retirement system, or investment board.

12 (3) Current and historic return information.

13 (4) A detailed listing of the investment advisers for
14 all asset classes.

15 (5) Performance of investments compared against
16 established benchmarks.

17 (6) A detailed list of all consultants doing business
18 with the retirement system, pension fund, or investment
19 board.

20 (7) A detailed list of all contractors, other than
21 investment advisers and consultants, doing business with
22 the retirement system, pension fund, or investment board.

23 (8) Any requests for investment services.

24 (9) The names and email addresses of all board members,
25 directors, and senior staff.

26 (10) The report required under Section 1-109.1 of this

1 Code, if applicable.

2 (11) The description of each contract required under
3 subsection (g) of Section 1-113.14 of this Code, if
4 applicable.

5 (e) A pension fund under Article 3 or 4 ~~whose investments~~
6 ~~are restricted by Section 1-113.2~~ of this Code shall make the
7 information required in subsection (d) of this Section
8 available on its web site or in a location that allows the
9 information to be available for inspection by the public.

10 (f) Nothing in this Section requires the pension fund,
11 retirement system, or investment board to make information
12 available on the Internet that is exempt from inspection and
13 copying under the Freedom of Information Act.

14 (Source: P.A. 96-6, eff. 4-3-09.)

15 (40 ILCS 5/1-113.20)

16 Sec. 1-113.20. Investment strategies; explicit and
17 implicit costs. Every pension fund, retirement system, and
18 investment board created under this Code, except those under
19 Article 3 or 4 ~~whose investments are restricted by Section~~
20 ~~1-113.2~~ of this Code, shall instruct the fund's, system's, or
21 board's investment advisors to utilize investment strategies
22 designed to ensure that all securities transactions are
23 executed in such a manner that the total explicit and implicit
24 costs and total proceeds in every transaction are the most
25 favorable under the circumstances.

1 (Source: P.A. 96-753, eff. 8-25-09.)

2 (40 ILCS 5/1-150)

3 Sec. 1-150. Approval of travel or educational mission. The
4 expenses for travel or educational missions of a board member
5 of a retirement system, pension fund, or investment board
6 created under this Code, except those under Article 3 or 4
7 ~~whose investments are restricted by Section 1-113.2~~ of this
8 Code, must be approved by a majority of the board prior to the
9 travel or educational mission.

10 (Source: P.A. 96-6, eff. 4-3-09.)

11 (40 ILCS 5/1-113.2 rep.)

12 (40 ILCS 5/1-113.3 rep.)

13 (40 ILCS 5/1-113.4 rep.)

14 Section 10. The Illinois Pension Code is amended by
15 repealing Sections 1-113.2, 1-113.3, and 1-113.4.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."