

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
5 changing Section 1-110.16 and by adding Section 1-110.17 as
6 follows:

7 (40 ILCS 5/1-110.16)

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

13 (a) As used in this Section:

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

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

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

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

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

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

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

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

26 "Iran-restricted company" means a company that meets

1 the qualifications under Section 1-110.15 of this Code.

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

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

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

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

15 (b) There shall be established an Illinois Investment
16 Policy Board. The Illinois Investment Policy Board shall
17 consist of 7 members. Each board of a pension fund or
18 investment board created under Article 15, 16, or 22A of this
19 Code shall appoint one member, and the Governor shall appoint
20 4 members.

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

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

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

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

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

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

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

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

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

1 Treasurer.

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

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

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

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

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

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

26 (1) reviewing and relying on publicly available

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 under subsection (f) of this Section.

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

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

18 (i) The cost associated with the activities of the
19 Illinois Investment Policy Board shall be borne by the boards
20 of each pension fund or investment board created under Article
21 15, 16, or 22A of this Code.

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

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

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

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

17 ~~(m) If any provision of Public Act 100-551 this amendatory~~
18 ~~Act of the 100th General Assembly or its application to any~~
19 ~~person or circumstance is held invalid, the invalidity of that~~
20 ~~provision or application does not affect other provisions or~~
21 ~~applications of Public Act 100-551 this amendatory Act of the~~
22 ~~100th General Assembly that can be given effect without the~~
23 ~~invalid provision or application.~~

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

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

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

6 (40 ILCS 5/1-110.17 new)

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.