



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5705

Introduced 2/24/2022, by Rep. Jim Durkin - Dan Brady

#### 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 companies domiciled in Russia and include those companies in the list of restricted companies for purposes of investment distributed to each retirement system and the Illinois State Board of Investment. Makes conforming changes. Effective immediately.

LRB102 26465 RPS 36916 b

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 as follows:

6 (40 ILCS 5/1-110.16)

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

12 (a) As used in this Section:

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

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

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

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

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

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

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

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

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

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

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

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 No later than 6 months after the effective date of this  
15 amendatory Act of the 102nd General Assembly, the Illinois  
16 Investment Policy Board shall make its best efforts to  
17 identify all companies domiciled in Russia and include those  
18 companies in the list of restricted companies distributed to  
19 each retirement system. These efforts shall include the  
20 following, as appropriate in the Illinois Investment Policy  
21 Board's judgment:

22 (1) reviewing and relying on publicly available  
23 information regarding companies domiciled in Russia,  
24 including information provided by nonprofit organizations,  
25 research firms, and government entities;

26 (2) contacting asset managers contracted by the

1 retirement systems that invest in companies domiciled in  
2 Russia;

3 (3) contacting other institutional investors that have  
4 divested from or engaged with companies domiciled in  
5 Russia; and

6 (4) retaining an independent research firm to identify  
7 companies domiciled in Russia.

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

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

16 (2) If, following the Illinois Investment Policy  
17 Board's engagement pursuant to this subsection (e) with a  
18 restricted company, that company ceases activity that  
19 designates the company to be an Iran-restricted company, a  
20 Sudan-restricted company, a company that boycotts Israel,  
21 an expatriated entity, or a for-profit company that  
22 contracts to shelter migrant children, the company shall  
23 be removed from the list of restricted companies and the  
24 provisions of this Section shall cease to apply to it  
25 unless it resumes such activities.

26 (3) For a company domiciled in Russia, if, following



1       the Illinois Investment Policy Board's engagement pursuant  
2       to this subsection (e), that company is no longer  
3       domiciled in Russia, the company shall be removed from the  
4       list of restricted companies and the provisions of this  
5       Section shall cease to apply to it unless it becomes  
6       domiciled in Russia.

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

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

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

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

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

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

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

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

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

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

26 (4) If the engagement efforts of the retirement system

1           are unsuccessful, then it shall adhere to the procedures  
2           under subsection (f) of this Section.

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

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

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

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

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

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

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

18 If any provision of Public Act 100-551 or its application  
19 to any person or circumstance is held invalid, the invalidity  
20 of that provision or application does not affect other  
21 provisions or applications of Public Act 100-551 that can be  
22 given effect without the invalid provision or application.

23 If any provision of Public Act 102-118 ~~this amendatory Act~~  
24 ~~of the 102nd General Assembly~~ or its application to any person  
25 or circumstance is held invalid, the invalidity of that  
26 provision or application does not affect other provisions or

1 applications of Public Act 102-118 ~~this amendatory Act of the~~  
2 ~~102nd General Assembly~~ that can be given effect without the  
3 invalid provision or application.

4 If any provision of this amendatory Act of the 102nd  
5 General Assembly or its application to any person or  
6 circumstance is held invalid, the invalidity of that provision  
7 or application does not affect other provisions or  
8 applications of this amendatory Act of the 102nd General  
9 Assembly that can be given effect without the invalid  
10 provision or application.

11 (Source: P.A. 102-118, eff. 7-23-21.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.