LRB103 30646 DTM 57104 b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2429

Introduced 2/10/2023, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

30 ILCS 238/10
30 ILCS 238/20

Amends the Illinois Sustainable Investing Act. Provides that, effective January 1, 2024, every investment manager shall comply with annual disclosure requirements that will require the investment manager to provide a description of the process through which the manager will prudently integrate sustainability factors into its investment decision-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated financial returns, identify and minimize projected risk, and execute its fiduciary duties more effectively. Provides that the investment manager shall provide the annual disclosure to each public agency, pension fund, retirement system, or governmental unit for whom the investment manager is acting as a fiduciary or seeking selection as a fiduciary prior to acting in this capacity and at least annually thereafter. Provides that annual disclosures shall be submitted by January 31st of every year after the effective date of the amendatory Act. Defines "investment manager".

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A BILL FOR

AN ACT concerning finance.

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

Section 5. The Illinois Sustainable Investing Act is amended by changing Sections 10 and 20 as follows:

(30 ILCS 238/10)

Sec. 10. Definitions. As used in this Act:

"Financial institution" means a bank, savings bank, or credit union established under the laws of the State of Illinois, another state, or the United States of America.

"Governmental unit" has the same meaning as in the Local Government Debt Reform Act.

"Investment manager" means:

(1) a fiduciary selected by a public agency, pension fund, retirement system or governmental unit who has the power to manage, acquire, or dispose of any asset of a public agency, pension fund, retirement system or governmental unit;

(2) has acknowledged in writing that he or she is a fiduciary with respect to the public fund, retirement system or pension fund; and

(3) is at least one of the following: (i) registered as an investment adviser under the federal Investment

Advisers Act of 1940; (ii) registered as an investment adviser under the Illinois Securities Law of 1953; (iii) a bank, as defined in the Investment Advisers Act of 1940; or (iv) an insurance company authorized to transact business in this State.

"Investment policy" means a written investment policy adopted by a public agency or governmental unit which addresses safety of principal, liquidity of funds, and return on investment and which requires the investment portfolio be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due.

"Public agency" means the State of Illinois, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, now or hereafter created, whether herein specifically mentioned or not.

"Public funds" means current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

"Sustainability factors" means factors that may have a material and relevant financial impact on the safety or performance of an investment and which are complementary to financial factors and financial accounting.

(Source: P.A. 101-473, eff. 1-1-20.)

(30 ILCS 238/20)

Sec. 20. Consideration of sustainable investment factors in decision-making.

(a) A public agency shall prudently integrate sustainability factors into its investment decision-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated financial returns, minimize projected risk, and more effectively execute its fiduciary duty.

(b) Sustainability factors may include, but are not limited to, the following:

(1) Corporate governance and leadership factors, such as the independence of boards and auditors, the expertise and competence of corporate boards and executives, systemic risk management practices, executive compensation structures, transparency and reporting, leadership diversity, regulatory and legal compliance, shareholder rights, and ethical conduct.

(2) Environmental factors that may have an adverse or positive financial impact on investment performance, such as greenhouse gas emissions, air quality, energy management, water and wastewater management, waste and

hazardous materials management, and ecological impacts.

(3) Social capital factors that impact relationships with key outside parties, such as customers, local communities, the public, and the government, which may impact investment performance. Social capital factors include human rights, customer welfare, customer privacy, data security, access and affordability, selling practices and product labeling, community reinvestment, and community relations.

(4) Human capital factors that recognize that the workforce is an important asset to delivering long-term value, including factors such as labor practices, responsible contractor and responsible bidder policies, employee health and safety, employee engagement, diversity and inclusion, and incentives and compensation.

(5) Business model and innovation factors that reflect an ability to plan and forecast opportunities and risks, and whether a company can create long-term shareholder value, including factors such as supply chain management, materials sourcing and efficiency, business model resilience, product design and life cycle management, and physical impacts of climate change.

(c) Sustainability factors may be analyzed in a variety of ways, including, but not limited to: (1) direct financial impacts and risks; (2) legal, regulatory, and policy impacts and risks; (3) against industry norms, best practices, and competitive drivers; and (4) stakeholder engagement.

(d) Nothing in this Act prohibits a public agency or governmental unit from integrating additional factors into its investment decision-making, investment analysis, portfolio construction, due diligence, and investment ownership of public funds. This Act shall not apply to financial institution time deposits or financial institution processing services.

<u>(d) Effective January 1, 2024, every investment manager shall comply with annual disclosure requirements, which shall include, but shall not be limited to, a description of the process through which the manager prudently integrates the sustainability factors described in subsection (b) into their investment decision-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated financial returns, identify and minimize projected risk, and execute the manager's fiduciary duties more effectively. The investment manager shall provide the manager's annual disclosure to each public agency, pension fund, retirement system, or governmental unit for whom the investment manager is acting as a fiduciary or seeking selection as a fiduciary before acting in this official capacity and at least annually thereafter. Annual disclosures shall be submitted by January 31st of every year after the effective date of this amendatory Act of the 103rd General Assembly.</u>

(Source: P.A. 101-473, eff. 1-1-20.)