



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1656

Introduced 2/19/2009, by Sen. Kwame Raoul

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Governmental Ethics Act. Requires members of the board of any pension fund or retirement system established under the Illinois Pension Code to file a statement of economic interests. Amends the State Officials and Employees Ethics Act. Includes appointed or elected commissioners, trustees, directors, or board members of a board of a State agency, including the boards found in the Illinois Pension Code, in the definition of "employee". Amends the Illinois Pension Code. Makes changes in provisions concerning the definition of "fiduciary", allocation and delegation of fiduciary duties, and prohibited transactions. Adds provisions concerning investment advisers, consultants, and investment services for investment boards, pension funds, and retirement systems other than downstate police and fire pension funds; investment transparency; prohibitions on monetary gain on investments; fraud, prohibitions on gifts; contingent fees; and procurements for pension funds, retirement systems, and investment boards, except downstate police and fire pension funds. Requires the University of Illinois to create the Illinois Fiduciary College for the purpose of education pension fund, retirement system, and investment board members and staffs on ethics.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

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 Governmental Ethics Act is amended  
5 by changing Sections 4A-101, 4A-102, 4A-106, and 4A-107 as  
6 follows:

7 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

8 Sec. 4A-101. Persons required to file. The following  
9 persons shall file verified written statements of economic  
10 interests, as provided in this Article:

11 (a) Members of the General Assembly and candidates for  
12 nomination or election to the General Assembly.

13 (b) Persons holding an elected office in the Executive  
14 Branch of this State, and candidates for nomination or  
15 election to these offices.

16 (c) Members of a Commission or Board created by the  
17 Illinois Constitution, and candidates for nomination or  
18 election to such Commission or Board.

19 (d) Persons whose appointment to office is subject to  
20 confirmation by the Senate.

21 (e) Holders of, and candidates for nomination or  
22 election to, the office of judge or associate judge of the  
23 Circuit Court and the office of judge of the Appellate or

1 Supreme Court.

2 (f) Persons who are employed by any branch, agency,  
3 authority or board of the government of this State,  
4 including but not limited to, the Illinois State Toll  
5 Highway Authority, the Illinois Housing Development  
6 Authority, the Illinois Community College Board, and  
7 institutions under the jurisdiction of the Board of  
8 Trustees of the University of Illinois, Board of Trustees  
9 of Southern Illinois University, Board of Trustees of  
10 Chicago State University, Board of Trustees of Eastern  
11 Illinois University, Board of Trustees of Governor's State  
12 University, Board of Trustees of Illinois State  
13 University, Board of Trustees of Northeastern Illinois  
14 University, Board of Trustees of Northern Illinois  
15 University, Board of Trustees of Western Illinois  
16 University, or Board of Trustees of the Illinois  
17 Mathematics and Science Academy, and are compensated for  
18 services as employees and not as independent contractors  
19 and who:

20 (1) are, or function as, the head of a department,  
21 commission, board, division, bureau, authority or  
22 other administrative unit within the government of  
23 this State, or who exercise similar authority within  
24 the government of this State;

25 (2) have direct supervisory authority over, or  
26 direct responsibility for the formulation,

1 negotiation, issuance or execution of contracts  
2 entered into by the State in the amount of \$5,000 or  
3 more;

4 (3) have authority for the issuance or  
5 promulgation of rules and regulations within areas  
6 under the authority of the State;

7 (4) have authority for the approval of  
8 professional licenses;

9 (5) have responsibility with respect to the  
10 financial inspection of regulated nongovernmental  
11 entities;

12 (6) adjudicate, arbitrate, or decide any judicial  
13 or administrative proceeding, or review the  
14 adjudication, arbitration or decision of any judicial  
15 or administrative proceeding within the authority of  
16 the State;

17 (7) have supervisory responsibility for 20 or more  
18 employees of the State; or

19 (8) negotiate, assign, authorize, or grant naming  
20 rights or sponsorship rights regarding any property or  
21 asset of the State, whether real, personal, tangible,  
22 or intangible.

23 (g) Persons who are elected to office in a unit of  
24 local government, and candidates for nomination or  
25 election to that office, including regional  
26 superintendents of school districts.

1           (h) Persons appointed to the governing board of a unit  
2           of local government, or of a special district, and persons  
3           appointed to a zoning board, or zoning board of appeals, or  
4           to a regional, county, or municipal plan commission, or to  
5           a board of review of any county, and persons appointed to  
6           the Board of the Metropolitan Pier and Exposition Authority  
7           and any Trustee appointed under Section 22 of the  
8           Metropolitan Pier and Exposition Authority Act, and  
9           persons appointed to a board or commission of a unit of  
10          local government who have authority to authorize the  
11          expenditure of public funds. This subsection does not apply  
12          to members of boards or commissions who function in an  
13          advisory capacity.

14          (i) Persons who are employed by a unit of local  
15          government and are compensated for services as employees  
16          and not as independent contractors and who:

17                 (1) are, or function as, the head of a department,  
18                 division, bureau, authority or other administrative  
19                 unit within the unit of local government, or who  
20                 exercise similar authority within the unit of local  
21                 government;

22                 (2) have direct supervisory authority over, or  
23                 direct responsibility for the formulation,  
24                 negotiation, issuance or execution of contracts  
25                 entered into by the unit of local government in the  
26                 amount of \$1,000 or greater;

1           (3) have authority to approve licenses and permits  
2           by the unit of local government; this item does not  
3           include employees who function in a ministerial  
4           capacity;

5           (4) adjudicate, arbitrate, or decide any judicial  
6           or administrative proceeding, or review the  
7           adjudication, arbitration or decision of any judicial  
8           or administrative proceeding within the authority of  
9           the unit of local government;

10          (5) have authority to issue or promulgate rules and  
11          regulations within areas under the authority of the  
12          unit of local government; or

13          (6) have supervisory responsibility for 20 or more  
14          employees of the unit of local government.

15          (j) Persons on the Board of Trustees of the Illinois  
16          Mathematics and Science Academy.

17          (k) Persons employed by a school district in positions  
18          that require that person to hold an administrative or a  
19          chief school business official endorsement.

20          (1) Special government agents. A "special government  
21          agent" is a person who is directed, retained, designated,  
22          appointed, or employed, with or without compensation, by or  
23          on behalf of a statewide executive branch constitutional  
24          officer to make an ex parte communication under Section  
25          5-50 of the State Officials and Employees Ethics Act or  
26          Section 5-165 of the Illinois Administrative Procedure

1 Act.

2 (m) Members of the board of commissioners of any flood  
3 prevention district.

4 (n) Members of the board of any pension fund or  
5 retirement system established under the Illinois Pension  
6 Code, if not required to file under any other provision of  
7 this Section.

8 This Section shall not be construed to prevent any unit of  
9 local government from enacting financial disclosure  
10 requirements that mandate more information than required by  
11 this Act.

12 (Source: P.A. 95-719, eff. 5-21-08.)

13 (5 ILCS 420/4A-102) (from Ch. 127, par. 604A-102)

14 Sec. 4A-102. The statement of economic interests required  
15 by this Article shall include the economic interests of the  
16 person making the statement as provided in this Section. The  
17 interest (if constructively controlled by the person making the  
18 statement) of a spouse or any other party, shall be considered  
19 to be the same as the interest of the person making the  
20 statement. Campaign receipts shall not be included in this  
21 statement.

22 (a) The following interests shall be listed by all persons  
23 required to file:

24 (1) The name, address and type of practice of any  
25 professional organization or individual professional

1 practice in which the person making the statement was an  
2 officer, director, associate, partner or proprietor, or  
3 served in any advisory capacity, from which income in  
4 excess of \$1200 was derived during the preceding calendar  
5 year;

6 (2) The nature of professional services (other than  
7 services rendered to the unit or units of government in  
8 relation to which the person is required to file) and the  
9 nature of the entity to which they were rendered if fees  
10 exceeding \$5,000 were received during the preceding  
11 calendar year from the entity for professional services  
12 rendered by the person making the statement.

13 (3) The identity (including the address or legal  
14 description of real estate) of any capital asset from which  
15 a capital gain of \$5,000 or more was realized in the  
16 preceding calendar year.

17 (4) The name of any unit of government which has  
18 employed the person making the statement during the  
19 preceding calendar year other than the unit or units of  
20 government in relation to which the person is required to  
21 file.

22 (5) The name of any entity from which a gift or gifts,  
23 or honorarium or honoraria, valued singly or in the  
24 aggregate in excess of \$500, was received during the  
25 preceding calendar year.

26 (b) The following interests shall also be listed by persons



1 listed in items (a) through (f), ~~and~~ item (l), and item (n) of  
2 Section 4A-101:

3 (1) The name and instrument of ownership in any entity  
4 doing business in the State of Illinois, in which an  
5 ownership interest held by the person at the date of filing  
6 is in excess of \$5,000 fair market value or from which  
7 dividends of in excess of \$1,200 were derived during the  
8 preceding calendar year. (In the case of real estate,  
9 location thereof shall be listed by street address, or if  
10 none, then by legal description). No time or demand deposit  
11 in a financial institution, nor any debt instrument need be  
12 listed;

13 (2) Except for professional service entities, the name  
14 of any entity and any position held therein from which  
15 income of in excess of \$1,200 was derived during the  
16 preceding calendar year, if the entity does business in the  
17 State of Illinois. No time or demand deposit in a financial  
18 institution, nor any debt instrument need be listed.

19 (3) The identity of any compensated lobbyist with whom  
20 the person making the statement maintains a close economic  
21 association, including the name of the lobbyist and  
22 specifying the legislative matter or matters which are the  
23 object of the lobbying activity, and describing the general  
24 type of economic activity of the client or principal on  
25 whose behalf that person is lobbying.

26 (c) The following interests shall also be listed by persons

1 listed in items (g), (h), and (i) of Section 4A-101:

2 (1) The name and instrument of ownership in any entity  
3 doing business with a unit of local government in relation  
4 to which the person is required to file if the ownership  
5 interest of the person filing is greater than \$5,000 fair  
6 market value as of the date of filing or if dividends in  
7 excess of \$1,200 were received from the entity during the  
8 preceding calendar year. (In the case of real estate,  
9 location thereof shall be listed by street address, or if  
10 none, then by legal description). No time or demand deposit  
11 in a financial institution, nor any debt instrument need be  
12 listed.

13 (2) Except for professional service entities, the name  
14 of any entity and any position held therein from which  
15 income in excess of \$1,200 was derived during the preceding  
16 calendar year if the entity does business with a unit of  
17 local government in relation to which the person is  
18 required to file. No time or demand deposit in a financial  
19 institution, nor any debt instrument need be listed.

20 (3) The name of any entity and the nature of the  
21 governmental action requested by any entity which has  
22 applied to a unit of local government in relation to which  
23 the person must file for any license, franchise or permit  
24 for annexation, zoning or rezoning of real estate during  
25 the preceding calendar year if the ownership interest of  
26 the person filing is in excess of \$5,000 fair market value

1 at the time of filing or if income or dividends in excess  
2 of \$1,200 were received by the person filing from the  
3 entity during the preceding calendar year.

4 (Source: P.A. 92-101, eff. 1-1-02; 93-617, eff. 12-9-03.)

5 (5 ILCS 420/4A-106) (from Ch. 127, par. 604A-106)

6 Sec. 4A-106. The statements of economic interests required  
7 of persons listed in items (a) through (f), item (j), ~~and~~ item  
8 (l), and item (n) of Section 4A-101 shall be filed with the  
9 Secretary of State. The statements of economic interests  
10 required of persons listed in items (g), (h), (i), and (k) of  
11 Section 4A-101 shall be filed with the county clerk of the  
12 county in which the principal office of the unit of local  
13 government with which the person is associated is located. If  
14 it is not apparent which county the principal office of a unit  
15 of local government is located, the chief administrative  
16 officer, or his or her designee, has the authority, for  
17 purposes of this Act, to determine the county in which the  
18 principal office is located. On or before February 1 annually,  
19 (1) the chief administrative officer of any State agency in the  
20 executive, legislative, or judicial branch employing persons  
21 required to file under item (f) or item (l) of Section 4A-101  
22 and the chief administrative officer of a board described in  
23 item (n) of Section 4A-101 shall certify to the Secretary of  
24 State the names and mailing addresses of those persons, and (2)  
25 the chief administrative officer, or his or her designee, of

1 each unit of local government with persons described in items  
2 (h), (i) and (k) of Section 4A-101 shall certify to the  
3 appropriate county clerk a list of names and addresses of  
4 persons described in items (h), (i) and (k) of Section 4A-101  
5 that are required to file. In preparing the lists, each chief  
6 administrative officer, or his or her designee, shall set out  
7 the names in alphabetical order.

8 On or before April 1 annually, the Secretary of State shall  
9 notify (1) all persons whose names have been certified to him  
10 under items (f), ~~and~~ (l), and (n) of Section 4A-101, and (2)  
11 all persons described in items (a) through (e) and item (j) of  
12 Section 4A-101, other than candidates for office who have filed  
13 their statements with their nominating petitions, of the  
14 requirements for filing statements of economic interests. A  
15 person required to file with the Secretary of State by virtue  
16 of more than one item among items (a) through (f) and items  
17 (j), ~~and~~ (l), and (n) shall be notified of and is required to  
18 file only one statement of economic interests relating to all  
19 items under which the person is required to file with the  
20 Secretary of State.

21 On or before April 1 annually, the county clerk of each  
22 county shall notify all persons whose names have been certified  
23 to him under items (g), (h), (i), and (k) of Section 4A-101,  
24 other than candidates for office who have filed their  
25 statements with their nominating petitions, of the  
26 requirements for filing statements of economic interests. A

1 person required to file with a county clerk by virtue of more  
2 than one item among items (g), (h), (i), and (k) shall be  
3 notified of and is required to file only one statement of  
4 economic interests relating to all items under which the person  
5 is required to file with that county clerk.

6 Except as provided in Section 4A-106.1, the notices  
7 provided for in this Section shall be in writing and deposited  
8 in the U.S. Mail, properly addressed, first class postage  
9 prepaid, on or before the day required by this Section for the  
10 sending of the notice. A certificate executed by the Secretary  
11 of State or county clerk attesting that he has mailed the  
12 notice constitutes prima facie evidence thereof.

13 From the lists certified to him under this Section of  
14 persons described in items (g), (h), (i), and (k) of Section  
15 4A-101, the clerk of each county shall compile an alphabetical  
16 listing of persons required to file statements of economic  
17 interests in his office under any of those items. As the  
18 statements are filed in his office, the county clerk shall  
19 cause the fact of that filing to be indicated on the  
20 alphabetical listing of persons who are required to file  
21 statements. Within 30 days after the due dates, the county  
22 clerk shall mail to the State Board of Elections a true copy of  
23 that listing showing those who have filed statements.

24 The county clerk of each county shall note upon the  
25 alphabetical listing the names of all persons required to file  
26 a statement of economic interests who failed to file a

1 statement on or before May 1. It shall be the duty of the  
2 several county clerks to give notice as provided in Section  
3 4A-105 to any person who has failed to file his or her  
4 statement with the clerk on or before May 1.

5 Any person who files or has filed a statement of economic  
6 interest under this Act is entitled to receive from the  
7 Secretary of State or county clerk, as the case may be, a  
8 receipt indicating that the person has filed such a statement,  
9 the date of such filing, and the identity of the governmental  
10 unit or units in relation to which the filing is required.

11 The Secretary of State may employ such employees and  
12 consultants as he considers necessary to carry out his duties  
13 hereunder, and may prescribe their duties, fix their  
14 compensation, and provide for reimbursement of their expenses.

15 All statements of economic interests filed under this  
16 Section shall be available for examination and copying by the  
17 public at all reasonable times. Not later than 12 months after  
18 the effective date of this amendatory Act of the 93rd General  
19 Assembly, beginning with statements filed in calendar year  
20 2004, the Secretary of State shall make statements of economic  
21 interests filed with the Secretary available for inspection and  
22 copying via the Secretary's website.

23 (Source: P.A. 93-617, eff. 12-9-03; 94-603, eff. 8-16-05.)

24 (5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

25 Sec. 4A-107. Any person required to file a statement of

1 economic interests under this Article who willfully files a  
2 false or incomplete statement shall be guilty of a Class A  
3 misdemeanor.

4 Failure to file a statement within the time prescribed  
5 shall result in ineligibility for, or forfeiture of, office or  
6 position of employment, as the case may be; provided, however,  
7 that if the notice of failure to file a statement of economic  
8 interests provided in Section 4A-105 of this Act is not given  
9 by the Secretary of State or the county clerk, as the case may  
10 be, no forfeiture shall result if a statement is filed within  
11 30 days of actual notice of the failure to file.

12 The Attorney General, with respect to offices or positions  
13 described in items (a) through (f) and items (j), ~~and~~ (l), and  
14 (n) of Section 4A-101 of this Act, or the State's Attorney of  
15 the county of the entity for which the filing of statements of  
16 economic interests is required, with respect to offices or  
17 positions described in items (g) through (i) and item (k) of  
18 Section 4A-101 of this Act, shall bring an action in quo  
19 warranto against any person who has failed to file by either  
20 May 31 or June 30 of any given year.

21 (Source: P.A. 93-617, eff. 12-9-03.)

22 Section 10. The State Officials and Employees Ethics Act is  
23 amended by changing Section 1-5 as follows:

24 (5 ILCS 430/1-5)

1           Sec. 1-5. Definitions. As used in this Act:

2           "Appointee" means a person appointed to a position in or  
3 with a State agency, regardless of whether the position is  
4 compensated.

5           "Campaign for elective office" means any activity in  
6 furtherance of an effort to influence the selection,  
7 nomination, election, or appointment of any individual to any  
8 federal, State, or local public office or office in a political  
9 organization, or the selection, nomination, or election of  
10 Presidential or Vice-Presidential electors, but does not  
11 include activities (i) relating to the support or opposition of  
12 any executive, legislative, or administrative action (as those  
13 terms are defined in Section 2 of the Lobbyist Registration  
14 Act), (ii) relating to collective bargaining, or (iii) that are  
15 otherwise in furtherance of the person's official State duties.

16           "Candidate" means a person who has filed nominating papers  
17 or petitions for nomination or election to an elected State  
18 office, or who has been appointed to fill a vacancy in  
19 nomination, and who remains eligible for placement on the  
20 ballot at either a general primary election or general  
21 election.

22           "Collective bargaining" has the same meaning as that term  
23 is defined in Section 3 of the Illinois Public Labor Relations  
24 Act.

25           "Commission" means an ethics commission created by this  
26 Act.



1 "Compensated time" means any time worked by or credited to  
2 a State employee that counts toward any minimum work time  
3 requirement imposed as a condition of employment with a State  
4 agency, but does not include any designated State holidays or  
5 any period when the employee is on a leave of absence.

6 "Compensatory time off" means authorized time off earned by  
7 or awarded to a State employee to compensate in whole or in  
8 part for time worked in excess of the minimum work time  
9 required of that employee as a condition of employment with a  
10 State agency.

11 "Contribution" has the same meaning as that term is defined  
12 in Section 9-1.4 of the Election Code.

13 "Employee" means (i) any person employed full-time,  
14 part-time, or pursuant to a contract and whose employment  
15 duties are subject to the direction and control of an employer  
16 with regard to the material details of how the work is to be  
17 performed or (ii) any appointed or elected commissioner,  
18 trustee, director, or board member of a board of a State  
19 agency, including the boards found in the Illinois Pension Code  
20 or (iii) any other appointee.

21 "Executive branch constitutional officer" means the  
22 Governor, Lieutenant Governor, Attorney General, Secretary of  
23 State, Comptroller, and Treasurer.

24 "Gift" means any gratuity, discount, entertainment,  
25 hospitality, loan, forbearance, or other tangible or  
26 intangible item having monetary value including, but not

1 limited to, cash, food and drink, and honoraria for speaking  
2 engagements related to or attributable to government  
3 employment or the official position of an employee, member, or  
4 officer.

5 "Governmental entity" means a unit of local government  
6 (including a community college district) or a school district  
7 but not a State agency.

8 "Leave of absence" means any period during which a State  
9 employee does not receive (i) compensation for State  
10 employment, (ii) service credit towards State pension  
11 benefits, and (iii) health insurance benefits paid for by the  
12 State.

13 "Legislative branch constitutional officer" means a member  
14 of the General Assembly and the Auditor General.

15 "Legislative leader" means the President and Minority  
16 Leader of the Senate and the Speaker and Minority Leader of the  
17 House of Representatives.

18 "Member" means a member of the General Assembly.

19 "Officer" means an executive branch constitutional officer  
20 or a legislative branch constitutional officer.

21 "Political" means any activity in support of or in  
22 connection with any campaign for elective office or any  
23 political organization, but does not include activities (i)  
24 relating to the support or opposition of any executive,  
25 legislative, or administrative action (as those terms are  
26 defined in Section 2 of the Lobbyist Registration Act), (ii)

1 relating to collective bargaining, or (iii) that are otherwise  
2 in furtherance of the person's official State duties or  
3 governmental and public service functions.

4 "Political organization" means a party, committee,  
5 association, fund, or other organization (whether or not  
6 incorporated) that is required to file a statement of  
7 organization with the State Board of Elections or a county  
8 clerk under Section 9-3 of the Election Code, but only with  
9 regard to those activities that require filing with the State  
10 Board of Elections or a county clerk.

11 "Prohibited political activity" means:

12 (1) Preparing for, organizing, or participating in any  
13 political meeting, political rally, political  
14 demonstration, or other political event.

15 (2) Soliciting contributions, including but not  
16 limited to the purchase of, selling, distributing, or  
17 receiving payment for tickets for any political  
18 fundraiser, political meeting, or other political event.

19 (3) Soliciting, planning the solicitation of, or  
20 preparing any document or report regarding any thing of  
21 value intended as a campaign contribution.

22 (4) Planning, conducting, or participating in a public  
23 opinion poll in connection with a campaign for elective  
24 office or on behalf of a political organization for  
25 political purposes or for or against any referendum  
26 question.

1           (5) Surveying or gathering information from potential  
2           or actual voters in an election to determine probable vote  
3           outcome in connection with a campaign for elective office  
4           or on behalf of a political organization for political  
5           purposes or for or against any referendum question.

6           (6) Assisting at the polls on election day on behalf of  
7           any political organization or candidate for elective  
8           office or for or against any referendum question.

9           (7) Soliciting votes on behalf of a candidate for  
10          elective office or a political organization or for or  
11          against any referendum question or helping in an effort to  
12          get voters to the polls.

13          (8)     Initiating     for     circulation,     preparing,  
14          circulating, reviewing, or filing any petition on behalf of  
15          a candidate for elective office or for or against any  
16          referendum question.

17          (9) Making contributions on behalf of any candidate for  
18          elective office in that capacity or in connection with a  
19          campaign for elective office.

20          (10) Preparing or reviewing responses to candidate  
21          questionnaires in connection with a campaign for elective  
22          office or on behalf of a political organization for  
23          political purposes.

24          (11) Distributing, preparing for distribution, or  
25          mailing campaign literature, campaign signs, or other  
26          campaign material on behalf of any candidate for elective

1 office or for or against any referendum question.

2 (12) Campaigning for any elective office or for or  
3 against any referendum question.

4 (13) Managing or working on a campaign for elective  
5 office or for or against any referendum question.

6 (14) Serving as a delegate, alternate, or proxy to a  
7 political party convention.

8 (15) Participating in any recount or challenge to the  
9 outcome of any election, except to the extent that under  
10 subsection (d) of Section 6 of Article IV of the Illinois  
11 Constitution each house of the General Assembly shall judge  
12 the elections, returns, and qualifications of its members.

13 "Prohibited source" means any person or entity who:

14 (1) is seeking official action (i) by the member or  
15 officer or (ii) in the case of an employee, by the employee  
16 or by the member, officer, State agency, or other employee  
17 directing the employee;

18 (2) does business or seeks to do business (i) with the  
19 member or officer or (ii) in the case of an employee, with  
20 the employee or with the member, officer, State agency, or  
21 other employee directing the employee;

22 (3) conducts activities regulated (i) by the member or  
23 officer or (ii) in the case of an employee, by the employee  
24 or by the member, officer, State agency, or other employee  
25 directing the employee;

26 (4) has interests that may be substantially affected by

1 the performance or non-performance of the official duties  
2 of the member, officer, or employee; or

3 (5) is registered or required to be registered with the  
4 Secretary of State under the Lobbyist Registration Act,  
5 except that an entity not otherwise a prohibited source  
6 does not become a prohibited source merely because a  
7 registered lobbyist is one of its members or serves on its  
8 board of directors.

9 "State agency" includes all officers, boards, commissions  
10 and agencies created by the Constitution, whether in the  
11 executive or legislative branch; all officers, departments,  
12 boards, commissions, agencies, institutions, authorities,  
13 public institutions of higher learning as defined in Section 2  
14 of the Higher Education Cooperation Act (except community  
15 colleges), and bodies politic and corporate of the State; and  
16 administrative units or corporate outgrowths of the State  
17 government which are created by or pursuant to statute, other  
18 than units of local government (including community college  
19 districts) and their officers, school districts, and boards of  
20 election commissioners; and all administrative units and  
21 corporate outgrowths of the above and as may be created by  
22 executive order of the Governor. "State agency" includes the  
23 General Assembly, the Senate, the House of Representatives, the  
24 President and Minority Leader of the Senate, the Speaker and  
25 Minority Leader of the House of Representatives, the Senate  
26 Operations Commission, and the legislative support services

1 agencies. "State agency" includes the Office of the Auditor  
2 General. "State agency" does not include the judicial branch.

3 "State employee" means any employee of a State agency.

4 "Ultimate jurisdictional authority" means the following:

5 (1) For members, legislative partisan staff, and  
6 legislative secretaries, the appropriate legislative  
7 leader: President of the Senate, Minority Leader of the  
8 Senate, Speaker of the House of Representatives, or  
9 Minority Leader of the House of Representatives.

10 (2) For State employees who are professional staff or  
11 employees of the Senate and not covered under item (1), the  
12 Senate Operations Commission.

13 (3) For State employees who are professional staff or  
14 employees of the House of Representatives and not covered  
15 under item (1), the Speaker of the House of  
16 Representatives.

17 (4) For State employees who are employees of the  
18 legislative support services agencies, the Joint Committee  
19 on Legislative Support Services.

20 (5) For State employees of the Auditor General, the  
21 Auditor General.

22 (6) For State employees of public institutions of  
23 higher learning as defined in Section 2 of the Higher  
24 Education Cooperation Act (except community colleges), the  
25 board of trustees of the appropriate public institution of  
26 higher learning.

1           (7) For State employees of an executive branch  
2 constitutional officer other than those described in  
3 paragraph (6), the appropriate executive branch  
4 constitutional officer.

5           (8) For State employees not under the jurisdiction of  
6 paragraph (1), (2), (3), (4), (5), (6), or (7), the  
7 Governor.

8 (Source: P.A. 95-880, eff. 8-19-08.)

9           Section 15. The Illinois Pension Code is amended by  
10 changing Sections 1-101.2, 1-109.1, and 1-110 and by adding  
11 Sections 1-113.14, 1-113.15, 1-113.16, 1-130, 1-135, 1-140,  
12 1-145, and 1-150 as follows:

13           (40 ILCS 5/1-101.2)

14           Sec. 1-101.2. Fiduciary. A person is a "fiduciary" with  
15 respect to a pension fund or retirement system established  
16 under this Code to the extent that the person:

17           (1) exercises any discretionary authority or  
18 discretionary control respecting management of the pension  
19 fund or retirement system, or exercises any authority or  
20 control respecting management or disposition of its  
21 assets;

22           (2) renders investment advice or renders advice on the  
23 selection of other fiduciaries for a fee or other  
24 compensation, direct or indirect, with respect to any



1 moneys or other property of the pension fund or retirement  
2 system, or has any authority or responsibility to do so; or

3 (3) has any discretionary authority or discretionary  
4 responsibility in the administration of the pension fund or  
5 retirement system.

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

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  
17 fund; and

18 (b) Allocate duties among themselves and designate  
19 others as fiduciaries to carry out specific fiduciary  
20 activities other than the management of the assets of the  
21 retirement system or pension fund.

22 (2) The board of trustees of a pension fund established  
23 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not  
24 transfer its investment authority, nor transfer the assets of  
25 the fund to any other person or entity for the purpose of

1 consolidating or merging its assets and management with any  
2 other pension fund or public investment authority, unless the  
3 board resolution authorizing such transfer is submitted for  
4 approval to the contributors and pensioners of the fund at  
5 elections held not less than 30 days after the adoption of such  
6 resolution by the board, and such resolution is approved by a  
7 majority of the votes cast on the question in both the  
8 contributors election and the pensioners election. The  
9 election procedures and qualifications governing the election  
10 of trustees shall govern the submission of resolutions for  
11 approval under this paragraph, insofar as they may be made  
12 applicable.

13 (3) Pursuant to subsections (h) and (i) of Section 6 of  
14 Article VII of the Illinois Constitution, the investment  
15 authority of boards of trustees of retirement systems and  
16 pension funds established under this Code is declared to be a  
17 subject of exclusive State jurisdiction, and the concurrent  
18 exercise by a home rule unit of any power affecting such  
19 investment authority is hereby specifically denied and  
20 preempted.

21 (4) For the purposes of this Code, "emerging investment  
22 manager" means a qualified investment adviser that manages an  
23 investment portfolio of at least \$10,000,000 but less than  
24 \$2,000,000,000 and is a "minority owned business", ~~or~~ "female  
25 owned business" or "business owned by a person with a  
26 disability" as those terms are defined in the Business

1 Enterprise for Minorities, Females, and Persons with  
2 Disabilities Act.

3 For the purposes of this Code, "minority broker-dealer"  
4 means a qualified broker-dealer who meets the definition of  
5 "minority owned business", "female owned business", or  
6 "business owned by a person with a disability", as those terms  
7 are defined in the Business Enterprise for Minorities, Females,  
8 and Persons with Disabilities Act.

9 It is hereby declared to be the public policy of the State  
10 of Illinois to encourage the trustees of public employee  
11 retirement systems, pension funds, and investment boards  
12 (hereinafter referred to as "system") to use emerging  
13 investment managers in managing their system's assets to the  
14 greatest extent feasible within the bounds of financial and  
15 fiduciary prudence, and to take affirmative steps to remove any  
16 barriers to the full participation of emerging investment  
17 managers in investment opportunities afforded by those  
18 retirement systems.

19 Each system subject to this Code shall adopt policies that  
20 identify the system's plan and implementation procedures for  
21 increasing the utilization of emerging investment managers and  
22 minority broker-dealers.

23 Each ~~retirement~~ system subject to this Code shall prepare a  
24 report to be submitted to the Governor and the General Assembly  
25 by September 1 of each year. The report shall identify the  
26 emerging investment managers and minority broker-dealers used

1 by the system, the percentage of the system's assets under the  
2 investment control of emerging investment managers, the  
3 percentage of total commissions paid by the system's investment  
4 managers to minority broker-dealers, the policies adopted by  
5 the system to increase the utilization of emerging investment  
6 managers and minority broker-dealers, and the actions it has  
7 undertaken to increase the use of emerging investment managers  
8 and minority broker-dealers, including encouraging other  
9 investment managers to use emerging investment managers as  
10 subcontractors when the opportunity arises and to use minority  
11 broker-dealers.

12 If in any case an emerging 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 emerging investment manager shall receive an invitation by  
16 the board of trustees, or an investment committee of the board  
17 of trustees, to present their firm for final consideration of a  
18 contract. In the case where multiple emerging 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. In any case where a firm meets the criteria of this  
22 Section, but does not present in front of the board, the staff  
23 must expressly notify that firm of all future searches with the  
24 same criteria as the initial search for which the firm was  
25 qualified.

26 The use of an emerging investment manager does not

1 constitute a transfer of investment authority for the purposes  
2 of subsection (2) of this Section.

3 (Source: P.A. 94-471, eff. 8-4-05.)

4 (40 ILCS 5/1-110) (from Ch. 108 1/2, par. 1-110)

5 Sec. 1-110. Prohibited Transactions.

6 (a) A fiduciary with respect to a retirement system or  
7 pension fund shall not cause the retirement system or pension  
8 fund to engage in a transaction if he or she knows or should  
9 know that such transaction constitutes a direct or indirect:

10 (1) Sale or exchange, or leasing of any property from  
11 the retirement system or pension fund to a party in  
12 interest for less than adequate consideration, or from a  
13 party in interest to a retirement system or pension fund  
14 for more than adequate consideration.

15 (2) Lending of money or other extension of credit from  
16 the retirement system or pension fund to a party in  
17 interest without the receipt of adequate security and a  
18 reasonable rate of interest, or from a party in interest to  
19 a retirement system or pension fund with the provision of  
20 excessive security or an unreasonably high rate of  
21 interest.

22 (3) Furnishing of goods, services or facilities 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 (4) Transfer to, or use by or for the benefit of, a  
3 party in interest of any assets of a retirement system or  
4 pension fund for less than adequate consideration.

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

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

9 (2) In his individual or any other capacity act in any  
10 transaction involving the retirement system or pension  
11 fund on behalf of a party whose interests are adverse to  
12 the interests of the retirement system or pension fund or  
13 the interests of its participants or beneficiaries; or

14 (3) Receive any consideration for his own personal  
15 account from any party dealing with the retirement system  
16 or pension fund in connection with a transaction involving  
17 the assets of the retirement system or pension fund.

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

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

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

26 (3) Serving as a trustee in addition to being an

1 officer, employee, agent or other representative of a party  
2 in interest.

3 (d) A fiduciary of a pension fund established under Article  
4 3 or 4 shall not knowingly cause or advise the pension fund to  
5 engage in an investment transaction when the fiduciary (i) has  
6 any direct interest in the income, gains, or profits of the  
7 investment advisor through which the investment transaction is  
8 made or (ii) has a business relationship with that investment  
9 advisor that would result in a pecuniary benefit to the  
10 fiduciary as a result of the investment transaction.

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

12 (e) A board member, employee, or consultant with respect to  
13 a retirement system or pension fund shall not knowingly cause  
14 or advise the retirement system or pension fund to engage in an  
15 investment transaction when the board member, employee,  
16 consultant, or their spouse (i) has any direct interest in the  
17 income, gains, or profits of the investment advisor through  
18 which the investment transaction is made or (ii) has a  
19 relationship with that investment advisor that would result in  
20 a pecuniary benefit to the board member, employee, or  
21 consultant or spouse of such board member, employee, or  
22 consultant as a result of the investment transaction. For  
23 purposes of this subsection (e), a consultant includes an  
24 employee or agent of a consulting firm who has greater than  
25 7.5% ownership of the consulting company.

26 Violation of this subsection (e) is a Class 3 felony.

1 (Source: P.A. 95-950, eff. 8-29-08.)

2 (40 ILCS 5/1-113.14 new)

3 Sec. 1-113.14. Investment advisers, consultants, and  
4 investment services for investment boards, pension funds, and  
5 retirement systems other than pension funds created under  
6 Articles 3 and 4.

7 (a) The selection and appointment of a consultant and the  
8 contracting for investment consulting services by a consultant  
9 constitute procurements that must be made and awarded in a  
10 manner consistent with Section 1-150 of this Code. All offers  
11 from responsive offerors shall be accompanied by disclosure of  
12 the names and addresses of the following:

13 (1) The offeror.

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

16 (3) Any entity that is a subsidiary of, or in which a  
17 controlling interest is owned by, the offeror.

18 (4) The offeror's key persons. "Key persons" means any  
19 persons who (i) have an ownership or distributive income  
20 share in the offeror that is in excess of 5%, or an amount  
21 greater than 60% of the annual salary of the Governor, or  
22 (ii) serve as executive officers of the offeror.

23 A person, other than a trustee or an employee of a pension  
24 fund or retirement system, may not act as a consultant under  
25 this Section unless that person is at least one of the



1 following: (i) registered as an investment adviser under the  
2 federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1, et  
3 seq.); (ii) registered as an investment adviser under the  
4 Illinois Securities Law of 1953; (iii) a bank, as defined in  
5 the Investment Advisers Act of 1940; or (iv) an insurance  
6 company authorized to transact business in this State.

7 (b) All investment advice and services provided by an  
8 investment adviser or a consultant appointed under this Section  
9 shall be (i) rendered pursuant to a written contract between  
10 the investment adviser or consultant and the board and (ii) in  
11 accordance with the board's investment policy.

12 The contract shall include all of the following:

13 (1) acknowledgement in writing by the investment  
14 adviser or consultant that he or she is a fiduciary with  
15 respect to the pension fund or retirement system;

16 (2) the board's investment policy;

17 (3) full disclosure of direct and indirect fees,  
18 commissions, penalties, and any other compensation that  
19 may be received by the investment adviser or consultant,  
20 including reimbursement for expenses; and

21 (4) a requirement that the investment adviser or  
22 consultant submit periodic written reports, on at least a  
23 quarterly basis, for the board's review at its regularly  
24 scheduled meetings. All returns on investment shall be  
25 reported as net returns after payment of all fees,  
26 commissions, and any other compensation.

1       (c) Each contract described in subsection (b) shall also  
2 include (i) full disclosure of direct and indirect fees,  
3 commissions, penalties, and other compensation, including  
4 reimbursement for expenses, that may be paid by or on behalf of  
5 the consultant in connection with the provision of services to  
6 the pension fund or retirement system and (ii) a requirement  
7 that the consultant update the disclosure promptly after a  
8 modification of those payments or an additional payment.

9       Within 30 days after the effective date of this amendatory  
10 Act of the 96th General Assembly, each consultant currently  
11 providing services or subject to an existing contract for the  
12 provision of services must disclose to the board of trustees  
13 all direct and indirect fees, commissions, penalties, and other  
14 compensation paid by or on behalf of the consultant in  
15 connection with the provision of those services and shall  
16 update that disclosure promptly after a modification of those  
17 payments or an additional payment. A person required to make a  
18 disclosure under subsection (d) is also required to disclose  
19 direct and indirect fees, commissions, penalties, or other  
20 compensation that shall or may be paid by or on behalf of the  
21 person in connection with the rendering of those services. The  
22 person shall update the disclosure promptly after a  
23 modification of those payments or an additional payment. The  
24 disclosures required by this subsection (b) shall be in writing  
25 and shall include the date and amount of each payment and the  
26 name and address of each recipient of a payment.

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

9       (e) Notwithstanding any other provision of law, a board of  
10 trustees of a pension fund or retirement system of this Code  
11 shall adopt a policy that sets forth goals of utilization of  
12 businesses owned by minorities, females, and persons with  
13 Disabilities. When developing these goals, the system shall  
14 look at the Business Enterprise for Minorities, Females, and  
15 Persons with Disabilities Act, the preceding 5 fiscal years  
16 utilization numbers, and the existence of qualified firms with  
17 a willingness to do business with the system. The board of  
18 trustees shall post upon its website the percentage of its  
19 contracts awarded under this Section currently and during the  
20 preceding 5 fiscal years that were awarded to minority owned  
21 businesses, female owned businesses, and businesses owned by a  
22 person with a disability.

23       (f) Notwithstanding the foregoing, the retirement system  
24 or pension fund established under this Code shall not have a  
25 goal that is less than 12% of the total dollar amount of all  
26 contracts let to "minority owned businesses", "female owned

1 businesses", and "businesses owned by a person with a  
2 disability", as those terms are defined in the Business  
3 Enterprise for Minorities, Females, and Persons with  
4 Disabilities Act.

5 (40 ILCS 5/1-113.15 new)

6 Sec. 1-113.15. Illinois Fiduciary College. The University  
7 of Illinois shall create and maintain a fiduciary college. This  
8 college shall offer continuing education at any of the  
9 University of Illinois campuses or other locations established  
10 by the University for the sole purpose of educating pension  
11 fund, retirement system, and investment board members and  
12 staffs on ethics, fiduciary duty, investment issues, and any  
13 other curriculum that the University establishes as being  
14 important to the administration of a pension system. It will be  
15 mandatory that all board members of any fund created under this  
16 Code, except those created under Articles 3 and 4, attend  
17 training of at least 8 hours per year at the Illinois Fiduciary  
18 College. All expenses shall be charged by the University to the  
19 retirement system as a percentage cost based on the total asset  
20 level possessed by the fund. The classes may be open to others  
21 at the University's discretion and shall be charged at an  
22 hourly rate equal to what the University would otherwise charge  
23 students for similar class work.

24 Pension funds established under Article 3 and 4 of this  
25 Code may opt to participate in these classes, and in doing so,

1 board members shall fulfill any requirements for training  
2 otherwise required by this Code. In establishing the costs paid  
3 by these funds, the University shall charge the boards a rate  
4 based on their size, but may waive this charge at the  
5 University's discretion.

6 (40 ILCS 5/1-113.16 new)

7 Sec. 1-113.16. Investment transparency.

8 (a) The purpose of this Section is to provide for  
9 transparency in the investment of public funds by requiring the  
10 reporting of full and complete information regarding the  
11 investment moneys by pension funds, retirement systems, and  
12 investment boards.

13 (b) The pension fund, retirement system, or investment  
14 board shall make available in a clear and conspicuous manner on  
15 its official website, and update at least monthly, all of the  
16 following information concerning the investment of public  
17 funds:

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

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

22 (3) Current and historic return information.

23 (4) A detailed listing of the investment managers for  
24 all asset classes and the performance of each.

25 (5) Performance of investments compared against

1 established benchmarks.

2 (c) Nothing in this Section requires the pension fund,  
3 retirement system, or investment board to make information  
4 available on the Internet that is exempt from inspection and  
5 copying under the Freedom of Information Act, or information  
6 which has not been audited and approved by its board.

7 (40 ILCS 5/1-130 new)

8 Sec. 1-130. No monetary gain on investments. No member or  
9 employee of the board of trustees of any retirement system or  
10 pension fund created under this Code or the Illinois State  
11 Board of Investment nor any spouse of such member or employee  
12 shall have any direct interest in the income, gains, or profits  
13 of any investments made in behalf of a retirement system or  
14 pension fund created under this Code, nor receive any pay or  
15 emolument for services in connection with any investment. No  
16 member or employee of the board of trustees of any retirement  
17 system or pension fund created under this Code or the Illinois  
18 State Board of Investment shall become an endorser or surety,  
19 or in any manner an obligor for money loaned or borrowed from  
20 any retirement system or pension fund created under this Code  
21 or the Illinois State Board of Investment. For the purposes of  
22 this Section, an annuity otherwise provided in accordance with  
23 this Code is not considered monetary gain on investments.

24 Violation of this Section is a Class 3 felony.

1 (40 ILCS 5/1-135 new)

2 Sec. 1-135. Fraud. Any person who knowingly makes any false  
3 statement or falsifies or permits to be falsified any record of  
4 a retirement system or pension fund created under this Code or  
5 the Illinois State Board of Investment in an attempt to defraud  
6 the retirement system or pension fund created under this Code  
7 or the Illinois State Board of Investment is guilty of a Class  
8 3 felony.

9 (40 ILCS 5/1-140 new)

10 Sec. 1-140. Prohibition on gifts.

11 (a) For the purposes of this Section:

12 "Board" means the board of trustees of a pension fund or  
13 retirement system created under this Code or the Illinois State  
14 Board of Investment.

15 "Gift" means a gift as defined in Section 1-5 of the State  
16 Officials and Employees Ethics Act; however, a gift shall not  
17 include those items excluded as a gift by the State Officials  
18 and Employees Ethics Act.

19 "Prohibited source" means a person or entity who: (i) is  
20 seeking official action (A) by the board, (B) by a board  
21 member, or (C) in the case of a board employee, by the  
22 employee, the board, a board member, or another employee  
23 directing the employee; (ii) does business or seeks to do  
24 business (A) with the board, (B) with a board member, or (C) in  
25 the case of a board employee, with the employee, the board, a

1 board member, or another employee directing the employee; (iii)  
2 has interests that may be substantially affected by the  
3 performance or non-performance of the official duties of the  
4 board member or employee; or (iv) is registered or required to  
5 be registered with the Secretary of State under the Lobbyist  
6 Registration Act, except that an entity not otherwise a  
7 prohibited source does not become a prohibited source merely  
8 because a registered lobbyist is one of its members or serves  
9 on its board of directors.

10 (b) No board member or employee shall solicit or accept any  
11 gift from a prohibited source or from an officer, agent, or  
12 employee of a prohibited source. No prohibited source or  
13 officer, agent, or employee of a prohibited source shall offer  
14 to a board member or employee any gift.

15 (c) Violation of this Section is a Class A misdemeanor.

16 (40 ILCS 5/1-145 new)

17 Sec. 1-145. Contingent fees. No person shall retain a  
18 solicitor or placement agent to attempt to influence the  
19 outcome of an investment decision of or the procurement of  
20 investment advice or services by a board of a pension fund or  
21 retirement system created under this Code, or the Board or  
22 Oversight Board of the Illinois Public Employees Retirement  
23 System for compensation contingent in whole or in part upon the  
24 decision or procurement, unless (i) such solicitor is a person  
25 enumerated in one of clauses (1) through (5) of Section 1-101.4



1 and is in compliance with Rule 206(4)-3 of the Investment  
2 Advisers Act of 1940 or (ii) such placement agent is registered  
3 as a broker or dealer pursuant to the federal Securities and  
4 Exchange Act of 1934, as amended, or the Illinois Securities  
5 Law of 1953.

6 Any person who violates this Section is guilty of a  
7 business offense and shall be fined not more than \$10,000.

8 (40 ILCS 5/1-150 new)

9 Sec. 1-150. Procurement for pension funds, retirement  
10 systems, and investment boards, except those created under  
11 Articles 3 and 4.

12 (a) For the purposes of this Section:

13 "Affiliated entity" means (i) any subsidiary of the bidding  
14 or contracting entity, (ii) any member of the same unitary  
15 business group, and (iii) any political committee for which the  
16 bidding or contracting entity is the sponsoring entity.

17 "Affiliated person" means (i) any person with any ownership  
18 interest or distributive share of the bidding or contracting  
19 entity in excess of 5%, (ii) any executive employee of the  
20 bidding or contracting entity, and (iii) the spouse and minor  
21 children of any such person.

22 "Consultant" means any person or entity that is employed to  
23 make recommendations to the pension fund, retirement system, or  
24 board of investment in choosing an investment manager or  
25 managers, but does not include an investment fund of funds

1 where the system has no direct contractual relationship with  
2 the investment manager.

3 (b) All investment consulting services for a pension fund,  
4 retirement system, or board of investment established under  
5 this Code, other than a pension fund established under Article  
6 3 or 4, shall be procured in accordance with the provisions of  
7 this Section. Each pension fund, retirement system, or board of  
8 investment has the authority to select, according to the  
9 provisions of this Section, its own investment consulting  
10 services.

11 (c) The pension fund, retirement system, or board of  
12 investment may develop appropriate and reasonable  
13 prequalification standards and categories of investment  
14 consulting services. If adopted, the prequalifications and  
15 categorizations shall be submitted to the Procurement Policy  
16 Board and published for public comment prior to their  
17 submission to the Joint Committee on Administrative Rules for  
18 approval.

19 The pension fund, retirement system, or board of investment  
20 shall also assemble and maintain a comprehensive list of  
21 prequalified and categorized businesses and persons.  
22 Prequalification shall not be used to bar or prevent any  
23 qualified business or person for bidding or responding to  
24 invitations for bid or proposal.

25 (d) The retirement system, pension fund, or board of  
26 investment shall develop, cause to be printed, and distribute

1 uniform documents for the solicitation, review, and acceptance  
2 of all investment consulting services. All retirement systems,  
3 pension funds, or boards of investment shall use the  
4 appropriate uniform procedures and forms specified in this  
5 subsection (c) for all investment consulting services. These  
6 forms shall include in detail, in writing, at least all of the  
7 following:

8 (1) A description of the goal to be achieved.

9 (2) The services to be performed.

10 (3) The need for the service.

11 (4) The qualifications that are necessary.

12 (5) A plan for post performance review.

13 (e) The pension fund, retirement system, or board of  
14 investment shall develop, cause to be printed, and distribute  
15 uniform documents for the contracting of investment consulting  
16 services. All pension funds, retirement systems, and boards of  
17 investment shall use the appropriate uniform contracts and  
18 forms in contracting for all professional and artistic  
19 services. These contracts and forms shall include in detail, in  
20 writing, at least all of the following:

21 (1) The details listed in subsection (c) of this  
22 Section relating to uniformity in procurement.

23 (2) The duration of the contract, with a schedule of  
24 delivery, when applicable.

25 (3) The method for charging and measuring cost (hourly,  
26 per day, etc.).

1           (4) The rate of remuneration.

2           (5) The maximum price.

3           (f) All contracts for investment consulting services,  
4 except as provided in this Section, shall be awarded using the  
5 competitive request for proposal process outlined in this  
6 Section. For each contract offered, the retirement system,  
7 pension fund, or board of investment shall use appropriate  
8 solicitation forms approved by its respective board of  
9 trustees. Approved solicitation forms shall be published on the  
10 website of the pension fund, retirement system, or board of  
11 investment. Notice of the offer or request for proposal shall  
12 appear at least 14 days before the response to the offer is  
13 due. All interested respondents shall return their responses to  
14 the pension fund, retirement system or board of investment.  
15 After evaluation, ranking, and selection, the pension fund,  
16 retirement system, or board of investment shall publish the  
17 names of the responsible procurement decision-maker, the  
18 successful respondent, a contract reference, and value of the  
19 let contract on its website. The pension fund, retirement  
20 system, and board of investment may each refine, but not  
21 contradict, this Section by promulgating rules for submission  
22 to the Joint Committee on Administrative Rules.

23           (g) Exceptions to this Section are allowed for sole source  
24 procurements, emergency procurements, and at the discretion of  
25 the pension fund, retirement system or board of investment, for  
26 professional and artistic contracts that are nonrenewable, one

1 year or less in duration, and have a value of less than  
2 \$20,000. All exceptions granted under this Section must still  
3 be published on the system's, fund's or board's website, shall  
4 name the authorizing person, and shall include a brief  
5 explanation of the reason for the exception.

6 (h) Any contract granted under this Section shall state  
7 whether the services of a subcontractor will be used. The  
8 contract shall include the names and addresses of all  
9 subcontractors and the expected amount of money each will  
10 receive under the contract. If at any time during the term of a  
11 contract, a contractor adds or changes any subcontractors, he  
12 or she shall promptly notify, in writing, the pension fund,  
13 retirement system or board of investment of the names and  
14 addresses and the expected amount of money each new or replaced  
15 subcontractor will receive.

16 (i) A person, other than a trustee or an employee of a  
17 pension fund, retirement system, or investment board, may not  
18 act as a consultant under this Section unless that person is at  
19 least one of the following: (i) registered as an investment  
20 adviser under the federal Investment Advisers Act of 1940 (15  
21 U.S.C. 80b-1, et seq.); (ii) registered as an investment  
22 adviser under the Illinois Securities Law of 1953; (iii) a  
23 bank, as defined in the Investment Advisers Act of 1940; or  
24 (iv) an insurance company authorized to transact business in  
25 this State.

26 (j) All investment advice and services provided by a

1 consultant appointed under this Section shall be (i) rendered  
2 pursuant to a written contract between the consultant and the  
3 pension fund, retirement system, or investment board, awarded  
4 as provided in subsection (f), and (ii) in accordance with the  
5 pension fund's, retirement system's, or investment board's  
6 investment policy. The contract shall include all of the  
7 following:

8 (1) Acknowledgement in writing by the consultant that  
9 the consultant is a fiduciary with respect to the pension  
10 fund, retirement system, or investment board.

11 (2) The pension fund's, retirement system's, or  
12 investment board's investment policy.

13 (3) Full disclosure of direct and indirect fees,  
14 commissions, penalties, and any other compensation that  
15 may be received by the consultant, including reimbursement  
16 for expenses.

17 (4) A requirement that the consultant submit periodic  
18 written reports, on at least a quarterly basis, for the  
19 pension fund's, retirement system's, or investment board's  
20 review at its regularly scheduled meetings.

21 (f) Each contract described in subsection (e) shall also  
22 include (i) full disclosure of direct and indirect fees,  
23 commissions, penalties, and other compensation, including  
24 reimbursement for expenses, that have been or may be paid by or  
25 on behalf of the consultant in connection with the provision of  
26 services to the pension fund or retirement system, and (ii) a

1 requirement that the consultant update the disclosure promptly  
2 after a modification of those payments or an additional  
3 payment. The disclosures required by this subsection (f) shall  
4 be in writing and shall include the date and amount of each  
5 payment and the name and address of each recipient of a  
6 payment.

7 Section 97. Severability. The provisions of this Act are  
8 severable under Section 1.31 of the Statute on Statutes.

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Statutes amended in order of appearance

- 5 ILCS 420/4A-101 from Ch. 127, par. 604A-101
- 5 ILCS 420/4A-102 from Ch. 127, par. 604A-102
- 5 ILCS 420/4A-106 from Ch. 127, par. 604A-106
- 5 ILCS 420/4A-107 from Ch. 127, par. 604A-107
- 5 ILCS 430/1-5
- 40 ILCS 5/1-101.2
- 40 ILCS 5/1-109.1 from Ch. 108 1/2, par. 1-109.1
- 40 ILCS 5/1-110 from Ch. 108 1/2, par. 1-110
- 40 ILCS 5/1-113.14 new
- 40 ILCS 5/1-113.15 new
- 40 ILCS 5/1-113.16 new
- 40 ILCS 5/1-130 new
- 40 ILCS 5/1-135 new
- 40 ILCS 5/1-140 new
- 40 ILCS 5/1-145 new
- 40 ILCS 5/1-150 new