



Sen. Ira I. Silverstein

**Filed: 4/17/2015**

09900SB1761sam002

LRB099 10953 RPS 34342 a

1 AMENDMENT TO SENATE BILL 1761

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1761, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Procurement Code is amended by  
6 adding Section 50-36.5 as follows:

7 (30 ILCS 500/50-36.5 new)

8 Sec. 50-36.5. Prohibition on contracts with businesses  
9 that boycott Israel. Notwithstanding any other provision of  
10 this Code, on and after the effective date of this amendatory  
11 Act of the 99th General Assembly, a State agency shall not  
12 enter into a contract subject to this Code with a business that  
13 boycotts Israel. In determining whether a business boycotts  
14 Israel, a State agency shall consult the list of restricted  
15 companies developed by the Illinois Investment Policy Board in  
16 accordance with Section 1-110.16 of the Illinois Pension Code.

1 For the purposes of this Section, "boycott Israel" means  
2 engaging in actions that are politically motivated and are  
3 intended to penalize, inflict economic harm on, or otherwise  
4 limit commercial relations with the State of Israel or  
5 businesses based in the State of Israel or in territories  
6 controlled by the State of Israel.

7 Section 10. The Illinois Pension Code is amended by adding  
8 Section 1-110.16 as follows:

9 (40 ILCS 5/1-110.16 new)

10 Sec. 1-110.16. Transactions prohibited by retirement  
11 systems; companies that boycott Israel, Iran-restricted  
12 companies, and Sudan-restricted companies.

13 (a) As used in this Section:

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

20 "Company" means any sole proprietorship, organization,  
21 association, corporation, partnership, joint venture,  
22 limited partnership, limited liability partnership,  
23 limited liability company, or other entity or business  
24 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 "Illinois Investment Policy Board" means the board  
5 established under subsection (b) of this Section.

6 "Direct holdings" in a company means all publicly  
7 traded securities of that company that are held directly by  
8 the retirement system in an actively managed account or  
9 fund in which the retirement system owns all shares or  
10 interests.

11 "Indirect holdings" in a company means all securities  
12 of that company that are held in an account or fund, such  
13 as a mutual fund, managed by one or more persons not  
14 employed by the retirement system, in which the retirement  
15 system owns shares or interests together with other  
16 investors not subject to the provisions of this Section or  
17 that are held in an index fund.

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

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

24 "Restricted companies" means companies that boycott  
25 Israel, Iran-restricted companies, and Sudan-restricted  
26 companies.

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

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

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

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

15           (d) By April 1, 2016, the Illinois Investment Policy Board  
16           shall make its best efforts to identify all Iran-restricted  
17           companies, Sudan-restricted companies, and companies that  
18           boycott Israel and assemble those identified companies into a  
19           list of restricted companies, to be distributed to each  
20           retirement system.

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

23           (1) reviewing and relying on publicly available  
24           information regarding Iran-restricted companies,  
25           Sudan-restricted companies, and companies that boycott  
26           Israel, including information provided by nonprofit

1 organizations, research firms, and government entities;

2 (2) contacting asset managers contracted by the  
3 retirement systems that invest in Iran-restricted  
4 companies, Sudan-restricted companies, and companies that  
5 boycott Israel;

6 (3) contacting other institutional investors that have  
7 divested from or engaged with Iran-restricted companies,  
8 Sudan-restricted companies, and companies that boycott  
9 Israel; and

10 (4) retaining an independent research firm to identify  
11 Iran-restricted companies, Sudan-restricted companies, and  
12 companies that boycott Israel.

13 The Illinois Investment Policy Board shall review the list  
14 of restricted companies on a quarterly basis based on evolving  
15 information from, among other sources, those listed in this  
16 subsection (d) and distribute any updates to the list of  
17 restricted companies to the retirement systems.

18 (e) The Illinois Investment Policy Board shall adhere to  
19 the following procedures for companies on the list of  
20 restricted companies:

21 (1) For each company newly identified in subsection  
22 (d), the Illinois Investment Policy Board shall send a  
23 written notice informing the company of its status and that  
24 it may become subject to divestment by the retirement  
25 systems.

26 (2) If, following the Illinois Investment Policy

1 Board's engagement pursuant to this subsection (e) with a  
2 restricted company, that company ceases activity that  
3 designates the company to be an Iran-restricted company, a  
4 Sudan-restricted company, or a company that boycotts  
5 Israel, the company shall be removed from the list of  
6 restricted companies and the provisions of this Section  
7 shall cease to apply to it unless it resumes such  
8 activities.

9 (f) The retirement system shall adhere to the following  
10 procedures for companies on the list of restricted companies:

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

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

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

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

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

10       (g) Upon request, and at least annually, each retirement  
11       system shall provide the Illinois Investment Policy Board with  
12       information regarding investments sold, redeemed, divested, or  
13       withdrawn in compliance with this Section.

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

26       (i) The cost associated with the activities of the Illinois

1 Investment Policy Board shall be borne by the boards of each  
2 pension fund or investment board created under Article 15, 16,  
3 or 22A of this Code.

4 (j) With respect to actions taken in compliance with this  
5 Section, including all good-faith determinations regarding  
6 companies as required by this Section, the retirement system  
7 and Illinois Investment Policy Board are exempt from any  
8 conflicting statutory or common law obligations, including any  
9 fiduciary duties under this Article and any obligations with  
10 respect to choice of asset managers, investment funds, or  
11 investments for the retirement system's securities portfolios.

12 (k) It is not the intent of the General Assembly in  
13 enacting this amendatory Act of the 99th General Assembly to  
14 cause divestiture from any company based in the United States  
15 of America. The Illinois Investment Policy Board shall consider  
16 this intent when developing or reviewing the list of restricted  
17 companies.

18 (l) If any provision of this amendatory Act of the 99th  
19 General Assembly or its application to any person or  
20 circumstance is held invalid, the invalidity of that provision  
21 or application does not affect other provisions or applications  
22 of this amendatory Act of the 99th General Assembly that can be  
23 given effect without the invalid provision or application.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.".