



Sen. Ira I. Silverstein

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LRB099 10953 EFG 34579 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 Pension Code is amended by adding
6 Section 1-110.16 as follows:

7 (40 ILCS 5/1-110.16 new)

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

11 (a) As used in this Section:

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

1 State of Israel.

2 "Company" means any sole proprietorship, organization,
3 association, corporation, partnership, joint venture,
4 limited partnership, limited liability partnership,
5 limited liability company, or other entity or business
6 association, including all wholly owned subsidiaries,
7 majority-owned subsidiaries, parent companies, or
8 affiliates of those entities or business associations,
9 that exist for the purpose of making profit.

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

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

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

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

26 "Private market fund" means any private equity fund,

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

4 "Restricted companies" means companies that boycott
5 Israel, Iran-restricted companies, and Sudan-restricted
6 companies.

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

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

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

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

21 (d) By April 1, 2016, the Illinois Investment Policy Board
22 shall make its best efforts to identify all Iran-restricted
23 companies, Sudan-restricted companies, and companies that
24 boycott Israel and assemble those identified companies into a
25 list of restricted companies, to be distributed to each
26 retirement system.

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

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

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

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

16 (4) retaining an independent research firm to identify
17 Iran-restricted companies, Sudan-restricted companies, and
18 companies that boycott Israel.

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

24 (e) The Illinois Investment Policy Board shall adhere to
25 the following procedures for companies on the list of
26 restricted companies:

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

6 (2) If, following the Illinois Investment Policy
7 Board's engagement pursuant to this subsection (e) with a
8 restricted company, that company ceases activity that
9 designates the company to be an Iran-restricted company, a
10 Sudan-restricted company, or a company that boycotts
11 Israel, the company shall be removed from the list of
12 restricted companies and the provisions of this Section
13 shall cease to apply to it unless it resumes such
14 activities.

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

17 (1) The retirement system shall identify those
18 companies on the list of restricted companies in which the
19 retirement system owns direct holdings and indirect
20 holdings.

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

1 restricted companies.

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

4 (4) The provisions of this subsection (f) do not apply
5 to the retirement system's indirect holdings or private
6 market funds. The Illinois Investment Policy Board shall
7 submit letters to the managers of those investment funds
8 containing restricted companies requesting that they
9 consider removing the companies from the fund or create a
10 similar actively managed fund having indirect holdings
11 devoid of the companies. If the manager creates a similar
12 fund, the retirement system shall replace all applicable
13 investments with investments in the similar fund in an
14 expedited timeframe consistent with prudent investing
15 standards.

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

20 (h) Notwithstanding any provision of this Section to the
21 contrary, a retirement system may cease divesting from
22 companies pursuant to subsection (f) if clear and convincing
23 evidence shows that the value of investments in such companies
24 becomes equal to or less than 0.5% of the market value of all
25 assets under management by the retirement system. For any
26 cessation of divestment authorized by this subsection (h), the

1 retirement system shall provide a written notice to the
2 Illinois Investment Policy Board in advance of the cessation of
3 divestment, setting forth the reasons and justification,
4 supported by clear and convincing evidence, for its decision to
5 cease divestment under subsection (f).

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

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

18 (k) It is not the intent of the General Assembly in
19 enacting this amendatory Act of the 99th General Assembly to
20 cause divestiture from any company based in the United States
21 of America. The Illinois Investment Policy Board shall consider
22 this intent when developing or reviewing the list of restricted
23 companies.

24 (l) If any provision of this amendatory Act of the 99th
25 General Assembly or its application to any person or
26 circumstance is held invalid, the invalidity of that provision

1 or application does not affect other provisions or applications
2 of this amendatory Act of the 99th General Assembly that can be
3 given effect without the invalid provision or application.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".