

HB5850



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5850

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-110.16

Amends the General Provisions Article of the Illinois Pension Code. Provides that the Ford Motor Company and its subsidiaries are restricted companies. Requires the Illinois Investment Policy Board to make its best efforts to identify all subsidiaries of the Ford Motor Company and include those companies in the list of restricted companies distributed to each retirement system and the Illinois State Board of Investment.

LRB100 21369 MJP 37764 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 1-110.16 as follows:

6 (40 ILCS 5/1-110.16)

7 Sec. 1-110.16. Transactions prohibited by retirement
8 systems; companies that boycott Israel, Iran-restricted
9 companies, Sudan-restricted companies, ~~and~~ expatriated
10 entities, and the Ford Motor Company.

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
17 State of Israel.

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

1 affiliates of those entities or business associations,
2 that exist for the purpose of making profit.

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

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

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

12 "Ford Motor Company" means the Ford Motor Company and
13 its subsidiaries.

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

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

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

1 "Restricted companies" means companies that boycott
2 Israel, Iran-restricted companies, Sudan-restricted
3 companies, ~~and~~ expatriated entities, and the Ford Motor
4 Company.

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

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

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

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

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

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

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

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

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

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

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

23 By April 1, 2018, the Illinois Investment Policy Board
24 shall make its best efforts to identify all expatriated
25 entities and include those companies in the list of restricted
26 companies distributed to each retirement system and the State

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

4 (1) reviewing and relying on publicly available
5 information regarding expatriated entities, including
6 information provided by nonprofit organizations, research
7 firms, and government entities;

8 (2) contacting asset managers contracted by the
9 retirement systems that invest in expatriated entities;

10 (3) contacting other institutional investors that have
11 divested from or engaged with expatriated entities; and

12 (4) retaining an independent research firm to identify
13 expatriated entities.

14 By July 1, 2019, the Illinois Investment Policy Board shall
15 make its best efforts to identify all subsidiaries of the Ford
16 Motor Company and include those companies in the list of
17 restricted companies distributed to each retirement system.
18 These efforts shall include the following, as appropriate in
19 the Illinois Investment Policy Board's judgment:

20 (1) reviewing and relying on publicly available
21 information;

22 (2) contacting asset managers contracted by the
23 retirement systems that invest in the Ford Motor Company;
24 and

25 (3) contacting other institutional investors that have
26 divested from or engaged with the Ford Motor Company.

1 (e) The Illinois Investment Policy Board shall adhere to
2 the following procedures for companies on the list of
3 restricted companies:

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

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

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

21 (1) The retirement system shall identify those
22 companies on the list of restricted companies in which the
23 retirement system owns direct holdings and indirect
24 holdings.

25 (2) The retirement system shall instruct its
26 investment advisors to sell, redeem, divest, or withdraw

1 all direct holdings of restricted companies from the
2 retirement system's assets under management in an orderly
3 and fiduciarily responsible manner within 12 months after
4 the company's most recent appearance on the list of
5 restricted companies.

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

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

20 (f-1) The retirement system shall adhere to the following
21 procedures for restricted companies that are expatriated
22 entities:

23 (1) To the extent that the retirement system believes
24 that shareholder activism would be more impactful than
25 divestment, the retirement system shall have the authority
26 to engage with a restricted company prior to divesting.

1 (2) Subject to any applicable State or Federal laws,
2 methods of shareholder activism utilized by the retirement
3 system may include, but are not limited to, bringing
4 shareholder resolutions and proxy voting on shareholder
5 resolutions.

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

9 (4) If the engagement efforts of the retirement system
10 are unsuccessful, then it shall adhere to the procedures
11 under subsection (f) of this Section.

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

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

1 cease divestment under subsection (f).

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

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

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

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

26 (m) If any provision of this amendatory Act of the 100th

1 General Assembly or its application to any person or
2 circumstance is held invalid, the invalidity of that provision
3 or application does not affect other provisions or applications
4 of this amendatory Act of the 100th General Assembly that can
5 be given effect without the invalid provision or application.

6 (n) If any provision of this amendatory Act of the 100th
7 General Assembly or its application to any person or
8 circumstance is held invalid, the invalidity of that provision
9 or application does not affect other provisions or applications
10 of this amendatory Act of the 100th General Assembly that can
11 be given effect without the invalid provision or application.

12 (Source: P.A. 99-128, eff. 7-23-15; 100-551, eff. 1-1-18.)