

SB2091



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2091

Introduced 2/10/2017, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-36.5 new
40 ILCS 5/1-110.16

Amends the Illinois Procurement Code. Prohibits a State agency from entering into a contract subject to the Code with a business that contracts with the federal government to build a wall along the border of Mexico and the United States of America. Amends the General Provisions Article of the Illinois Pension Code. Requires the Illinois Investment Policy Board to make its best efforts to identify all companies that contract to build a border wall and include those companies in the list of restricted companies distributed to each retirement system and the Illinois State Board of Investment. Effective immediately.

LRB100 09977 RPS 20148 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning finance.

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

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

6 (30 ILCS 500/50-36.5 new)

7 Sec. 50-36.5. Prohibition on contracts with businesses
8 that contract to build a border wall. Notwithstanding any other
9 provision of this Code, on and after the effective date of this
10 amendatory Act of the 100th General Assembly, a State agency
11 shall not enter into a contract subject to this Code with a
12 business that contracts to build a border wall. In determining
13 whether a business contracts to build a border wall, a State
14 agency shall consult the list of restricted companies developed
15 by the Illinois Investment Policy Board in accordance with
16 Section 1-110.16 of the Illinois Pension Code. For the purposes
17 of this Section, "contracts to build a border wall" means
18 entering into a contract with the federal government for the
19 purposes of building a wall along the border of Mexico and the
20 United States of America.

21 Section 10. The Illinois Pension Code is amended by
22 changing Section 1-110.16 as follows:

1 (40 ILCS 5/1-110.16)

2 Sec. 1-110.16. Transactions prohibited by retirement
3 systems; companies that boycott Israel, companies that
4 contract to build a border wall, Iran-restricted companies, and
5 Sudan-restricted companies.

6 (a) As used in this Section:

7 "Boycott Israel" means engaging in actions that are
8 politically motivated and are intended to penalize,
9 inflict economic harm on, or otherwise limit commercial
10 relations with the State of Israel or companies based in
11 the State of Israel or in territories controlled by the
12 State of Israel.

13 "Company" means any sole proprietorship, organization,
14 association, corporation, partnership, joint venture,
15 limited partnership, limited liability partnership,
16 limited liability company, or other entity or business
17 association, including all wholly owned subsidiaries,
18 majority-owned subsidiaries, parent companies, or
19 affiliates of those entities or business associations,
20 that exist for the purpose of making profit.

21 "Contract to build a border wall" means entering into a
22 contract with the federal government for the purposes of
23 building a wall along the border of Mexico and the United
24 States of America.

25 "Illinois Investment Policy Board" means the board

1 established under subsection (b) of this Section.

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

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

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

16 "Private market fund" means any private equity fund,
17 private equity funds of funds, venture capital fund, hedge
18 fund, hedge fund of funds, real estate fund, or other
19 investment vehicle that is not publicly traded.

20 "Restricted companies" means companies that boycott
21 Israel, companies that contract to build a border wall,
22 Iran-restricted companies, and Sudan-restricted companies.

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

26 "Sudan-restricted company" means a company that meets

1 the qualifications under Section 1-110.6 of this Code.

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

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

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

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

19 (1) reviewing and relying on publicly available
20 information regarding Iran-restricted companies,
21 Sudan-restricted companies, and companies that boycott
22 Israel, including information provided by nonprofit
23 organizations, research firms, and government entities;

24 (2) contacting asset managers contracted by the
25 retirement systems that invest in Iran-restricted
26 companies, Sudan-restricted companies, and companies that

1 boycott Israel;

2 (3) contacting other institutional investors that have
3 divested from or engaged with Iran-restricted companies,
4 Sudan-restricted companies, and companies that boycott
5 Israel; and

6 (4) retaining an independent research firm to identify
7 Iran-restricted companies, Sudan-restricted companies, and
8 companies that boycott Israel.

9 By May 1, 2017, the Illinois Investment Policy Board shall
10 make its best efforts to identify all companies that contract
11 to build a border wall and include those companies in the list
12 of restricted companies distributed to each retirement system.
13 These efforts shall include the following, as appropriate in
14 the Illinois Investment Policy Board's judgment:

15 (1) reviewing and relying on publicly available
16 information regarding companies that contract to build a
17 border wall, including information provided by nonprofit
18 organizations, research firms, and government entities;

19 (2) contacting asset managers contracted by the
20 retirement systems that invest in companies that contract
21 to build a border wall;

22 (3) contacting other institutional investors that have
23 divested from or engaged with companies that contract to
24 build a border wall; and

25 (4) retaining an independent research firm to identify
26 companies that contract to build a border wall.

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

6 (e) The Illinois Investment Policy Board shall adhere to
7 the following procedures for companies on the list of
8 restricted companies:

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

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

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

25 (1) The retirement system shall identify those
26 companies on the list of restricted companies in which the

1 retirement system owns direct holdings and indirect
2 holdings.

3 (2) The retirement system shall instruct its
4 investment advisors to sell, redeem, divest, or withdraw
5 all direct holdings of restricted companies from the
6 retirement system's assets under management in an orderly
7 and fiduciarily responsible manner within 12 months after
8 the company's most recent appearance on the list of
9 restricted companies.

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

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

24 (g) Upon request, and at least annually, each retirement
25 system shall provide the Illinois Investment Policy Board with
26 information regarding investments sold, redeemed, divested, or

1 withdrawn in compliance with this Section.

2 (h) Notwithstanding any provision of this Section to the
3 contrary, a retirement system may cease divesting from
4 companies pursuant to subsection (f) if clear and convincing
5 evidence shows that the value of investments in such companies
6 becomes equal to or less than 0.5% of the market value of all
7 assets under management by the retirement system. For any
8 cessation of divestment authorized by this subsection (h), the
9 retirement system shall provide a written notice to the
10 Illinois Investment Policy Board in advance of the cessation of
11 divestment, setting forth the reasons and justification,
12 supported by clear and convincing evidence, for its decision to
13 cease divestment under subsection (f).

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

18 (j) With respect to actions taken in compliance with this
19 Section, including all good-faith determinations regarding
20 companies as required by this Section, the retirement system
21 and Illinois Investment Policy Board are exempt from any
22 conflicting statutory or common law obligations, including any
23 fiduciary duties under this Article and any obligations with
24 respect to choice of asset managers, investment funds, or
25 investments for the retirement system's securities portfolios.

26 (k) It is not the intent of the General Assembly in

1 enacting Public Act 99-128 ~~this amendatory Act of the 99th~~
2 ~~General Assembly~~ to cause divestiture from any company based in
3 the United States of America. The Illinois Investment Policy
4 Board shall consider this intent when developing or reviewing
5 the list of restricted companies.

6 (1) If any provision of Public Act 99-128 or this
7 amendatory Act of the 100th General Assembly ~~this amendatory~~
8 ~~Act of the 99th General Assembly~~ or its application to any
9 person or circumstance is held invalid, the invalidity of that
10 provision or application does not affect other provisions or
11 applications of Public Act 99-128 or this amendatory Act of the
12 100th General Assembly ~~this amendatory Act of the 99th General~~
13 ~~Assembly~~ that can be given effect without the invalid provision
14 or application.

15 (Source: P.A. 99-128, eff. 7-23-15.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.