

# HB0280



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0280

by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-110.16

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 for purposes of investment distributed to each retirement system and the Illinois State Board of Investment. Effective immediately.

LRB101 04977 RPS 49986 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, companies that  
9 contract to build a border wall, Iran-restricted companies,  
10 Sudan-restricted companies, and expatriated entities.

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 "Contract to build a border wall" means entering into a  
4 contract with the federal government for construction  
5 pursuant to Section 4 of Executive Order 13767 of the  
6 President of the United States.

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

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

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

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

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

25 "Private market fund" means any private equity fund,  
26 private equity funds of funds, venture capital fund, hedge

1 fund, hedge fund of funds, real estate fund, or other  
2 investment vehicle that is not publicly traded.

3 "Restricted companies" means companies that boycott  
4 Israel, companies that contract to build a border wall,  
5 Iran-restricted companies, Sudan-restricted companies, and  
6 expatriated entities.

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 and the State  
24 Treasurer.

25           By April 1, 2018, the Illinois Investment Policy Board  
26 shall make its best efforts to identify all expatriated

1 entities and include those companies in the list of restricted  
2 companies distributed to each retirement system and the State  
3 Treasurer. These efforts shall include the following, as  
4 appropriate in the Illinois Investment Policy Board's  
5 judgment:

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

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

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

14 (4) retaining an independent research firm to identify  
15 expatriated entities.

16 Within 6 months after effective date of this amendatory Act  
17 of the 101st General Assembly, the Illinois Investment Policy  
18 Board shall make its best efforts to identify all companies  
19 that contract to build a border wall and include those  
20 companies in the list of restricted companies distributed to  
21 each retirement system. These efforts shall include the  
22 following, as appropriate in the Illinois Investment Policy  
23 Board's judgment:

24 (1) reviewing and relying on publicly available  
25 information regarding companies that contract to build a  
26 border wall, 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 companies that contract  
4 to build a border wall;

5 (3) contacting other institutional investors that have  
6 divested from or engaged with companies that contract to  
7 build a border wall; and

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

10 (e) The Illinois Investment Policy Board shall adhere to  
11 the following procedures for companies on the list of  
12 restricted companies:

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

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

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

4 (1) The retirement system shall identify those  
5 companies on the list of restricted companies in which the  
6 retirement system owns direct holdings and indirect  
7 holdings.

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

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

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



1 expedited timeframe consistent with prudent investing  
2 standards.

3 (f-1) The retirement system shall adhere to the following  
4 procedures for restricted companies that are expatriated  
5 entities:

6 (1) To the extent that the retirement system believes  
7 that shareholder activism would be more impactful than  
8 divestment, the retirement system shall have the authority  
9 to engage with a restricted company prior to divesting.

10 (2) Subject to any applicable State or Federal laws,  
11 methods of shareholder activism utilized by the retirement  
12 system may include, but are not limited to, bringing  
13 shareholder resolutions and proxy voting on shareholder  
14 resolutions.

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

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

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

25 (h) Notwithstanding any provision of this Section to the  
26 contrary, a retirement system may cease divesting from

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

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

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

23 (k) It is not the intent of the General Assembly in  
24 enacting this amendatory Act of the 99th General Assembly to  
25 cause divestiture from any company based in the United States  
26 of America. The Illinois Investment Policy Board shall consider

1 this intent when developing or reviewing the list of restricted  
2 companies.

3 (l) If any provision of this amendatory Act of the 99th  
4 General Assembly or its application to any person or  
5 circumstance is held invalid, the invalidity of that provision  
6 or application does not affect other provisions or applications  
7 of this amendatory Act of the 99th General Assembly that can be  
8 given effect without the invalid provision or application.

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

15 (n) If any provision of this amendatory Act of the 101st  
16 General Assembly or its application to any person or  
17 circumstance is held invalid, the invalidity of that provision  
18 or application does not affect other provisions or applications  
19 of this amendatory Act of the 101st General Assembly that can  
20 be given effect without the invalid provision or application.

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

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.