

SB2060



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2060

Introduced 2/15/2019, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-109.1

from Ch. 108 1/2, par. 1-109.1

Amends the General Provisions Article of the Illinois Pension Code. In a provision requiring a retirement system, pension fund, or investment board to adopt a policy setting forth goals for the utilization of emerging investment managers, provides that the goals established shall be based on the percentage of total fees paid under (instead of the total dollar amount of) investment contracts let to minority-owned businesses, women-owned businesses, and businesses owned by a person with a disability. Requires the goals to be established on or before January 1, 2020. Effective immediately.

LRB101 06198 RPS 51222 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 1-109.1 as follows:

6 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

7 Sec. 1-109.1. Allocation and delegation of fiduciary
8 duties.

9 (1) Subject to the provisions of Section 22A-113 of this
10 Code and subsections (2) and (3) of this Section, the board of
11 trustees of a retirement system or pension fund established
12 under this Code may:

13 (a) Appoint one or more investment managers as
14 fiduciaries to manage (including the power to acquire and
15 dispose of) any assets of the retirement system or pension
16 fund; and

17 (b) Allocate duties among themselves and designate
18 others as fiduciaries to carry out specific fiduciary
19 activities other than the management of the assets of the
20 retirement system or pension fund.

21 (2) The board of trustees of a pension fund established
22 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
23 transfer its investment authority, nor transfer the assets of

1 the fund to any other person or entity for the purpose of
2 consolidating or merging its assets and management with any
3 other pension fund or public investment authority, unless the
4 board resolution authorizing such transfer is submitted for
5 approval to the contributors and pensioners of the fund at
6 elections held not less than 30 days after the adoption of such
7 resolution by the board, and such resolution is approved by a
8 majority of the votes cast on the question in both the
9 contributors election and the pensioners election. The
10 election procedures and qualifications governing the election
11 of trustees shall govern the submission of resolutions for
12 approval under this paragraph, insofar as they may be made
13 applicable.

14 (3) Pursuant to subsections (h) and (i) of Section 6 of
15 Article VII of the Illinois Constitution, the investment
16 authority of boards of trustees of retirement systems and
17 pension funds established under this Code is declared to be a
18 subject of exclusive State jurisdiction, and the concurrent
19 exercise by a home rule unit of any power affecting such
20 investment authority is hereby specifically denied and
21 preempted.

22 (4) For the purposes of this Code, "emerging investment
23 manager" means a qualified investment adviser that manages an
24 investment portfolio of at least \$10,000,000 but less than
25 \$10,000,000,000 and is a "minority-owned business",
26 "women-owned business" or "business owned by a person with a

1 disability" as those terms are defined in the Business
2 Enterprise for Minorities, Women, and Persons with
3 Disabilities Act.

4 It is hereby declared to be the public policy of the State
5 of Illinois to encourage the trustees of public employee
6 retirement systems, pension funds, and investment boards to use
7 emerging investment managers in managing their system's
8 assets, encompassing all asset classes, and increase the
9 racial, ethnic, and gender diversity of its fiduciaries, to the
10 greatest extent feasible within the bounds of financial and
11 fiduciary prudence, and to take affirmative steps to remove any
12 barriers to the full participation in investment opportunities
13 afforded by those retirement systems, pension funds, and
14 investment boards.

15 On or before January 1, 2020 ~~2010~~, a retirement system,
16 pension fund, or investment board subject to this Code, except
17 those whose investments are restricted by Section 1-113.2 of
18 this Code, shall adopt a policy that sets forth goals for
19 utilization of emerging investment managers. This policy shall
20 include quantifiable goals for the management of assets in
21 specific asset classes by emerging investment managers. The
22 retirement system, pension fund, or investment board shall
23 establish 3 separate goals for: (i) emerging investment
24 managers that are minority-owned businesses; (ii) emerging
25 investment managers that are women-owned businesses; and (iii)
26 emerging investment managers that are businesses owned by a

1 person with a disability. The goals established shall be based
2 on the percentage of total fees paid under ~~dollar amount of~~
3 investment service contracts let to minority-owned businesses,
4 women-owned businesses, and businesses owned by a person with a
5 disability, as those terms are defined in the Business
6 Enterprise for Minorities, Women, and Persons with
7 Disabilities Act. The retirement system, pension fund, or
8 investment board shall annually review the goals established
9 under this subsection.

10 If in any case an emerging investment manager meets the
11 criteria established by a board for a specific search and meets
12 the criteria established by a consultant for that search, then
13 that emerging investment manager shall receive an invitation by
14 the board of trustees, or an investment committee of the board
15 of trustees, to present his or her firm for final consideration
16 of a contract. In the case where multiple emerging investment
17 managers meet the criteria of this Section, the staff may
18 choose the most qualified firm or firms to present to the
19 board.

20 The use of an emerging investment manager does not
21 constitute a transfer of investment authority for the purposes
22 of subsection (2) of this Section.

23 (5) Each retirement system, pension fund, or investment
24 board subject to this Code, except those whose investments are
25 restricted by Section 1-113.2 of this Code, shall establish a
26 policy that sets forth goals for increasing the racial, ethnic,

1 and gender diversity of its fiduciaries, including its
2 consultants and senior staff. Each retirement system, pension
3 fund, or investment board shall make its best efforts to ensure
4 that the racial and ethnic makeup of its senior administrative
5 staff represents the racial and ethnic makeup of its
6 membership. Each system, fund, and investment board shall
7 annually review the goals established under this subsection.

8 (6) On or before January 1, 2010, a retirement system,
9 pension fund, or investment board subject to this Code, except
10 those whose investments are restricted by Section 1-113.2 of
11 this Code, shall adopt a policy that sets forth goals for
12 utilization of businesses owned by minorities, women, and
13 persons with disabilities for all contracts and services. The
14 goals established shall be based on the percentage of total
15 dollar amount of all contracts let to minority-owned
16 businesses, women-owned businesses, and businesses owned by a
17 person with a disability, as those terms are defined in the
18 Business Enterprise for Minorities, Women, and Persons with
19 Disabilities Act. The retirement system, pension fund, or
20 investment board shall annually review the goals established
21 under this subsection.

22 (7) On or before January 1, 2010, a retirement system,
23 pension fund, or investment board subject to this Code, except
24 those whose investments are restricted by Section 1-113.2 of
25 this Code, shall adopt a policy that sets forth goals for
26 increasing the utilization of minority broker-dealers. For the

1 purposes of this Code, "minority broker-dealer" means a
2 qualified broker-dealer who meets the definition of
3 "minority-owned business", "women-owned business", or
4 "business owned by a person with a disability", as those terms
5 are defined in the Business Enterprise for Minorities, Women,
6 and Persons with Disabilities Act. The retirement system,
7 pension fund, or investment board shall annually review the
8 goals established under this Section.

9 (8) Each retirement system, pension fund, and investment
10 board subject to this Code, except those whose investments are
11 restricted by Section 1-113.2 of this Code, shall submit a
12 report to the Governor and the General Assembly by January 1 of
13 each year that includes the following: (i) the policy adopted
14 under subsection (4) of this Section, including the names and
15 addresses of the emerging investment managers used, percentage
16 of the assets under the investment control of emerging
17 investment managers for the 3 separate goals, and the actions
18 it has undertaken to increase the use of emerging investment
19 managers, including encouraging other investment managers to
20 use emerging investment managers as subcontractors when the
21 opportunity arises; (ii) the policy adopted under subsection
22 (5) of this Section; (iii) the policy adopted under subsection
23 (6) of this Section; (iv) the policy adopted under subsection
24 (7) of this Section, including specific actions undertaken to
25 increase the use of minority broker-dealers; and (v) the policy
26 adopted under subsection (9) of this Section.

1 (9) On or before February 1, 2015, a retirement system,
2 pension fund, or investment board subject to this Code, except
3 those whose investments are restricted by Section 1-113.2 of
4 this Code, shall adopt a policy that sets forth goals for
5 increasing the utilization of minority investment managers.
6 For the purposes of this Code, "minority investment manager"
7 means a qualified investment manager that manages an investment
8 portfolio and meets the definition of "minority-owned
9 business", "women-owned business", or "business owned by a
10 person with a disability", as those terms are defined in the
11 Business Enterprise for Minorities, Women, and Persons with
12 Disabilities Act.

13 It is hereby declared to be the public policy of the State
14 of Illinois to encourage the trustees of public employee
15 retirement systems, pension funds, and investment boards to use
16 minority investment managers in managing their systems'
17 assets, encompassing all asset classes, and to increase the
18 racial, ethnic, and gender diversity of their fiduciaries, to
19 the greatest extent feasible within the bounds of financial and
20 fiduciary prudence, and to take affirmative steps to remove any
21 barriers to the full participation in investment opportunities
22 afforded by those retirement systems, pension funds, and
23 investment boards.

24 The retirement system, pension fund, or investment board
25 shall establish 3 separate goals for: (i) minority investment
26 managers that are minority-owned businesses; (ii) minority

1 investment managers that are women-owned businesses; and (iii)
2 minority investment managers that are businesses owned by a
3 person with a disability. The retirement system, pension fund,
4 or investment board shall annually review the goals established
5 under this Section.

6 If in any case a minority investment manager meets the
7 criteria established by a board for a specific search and meets
8 the criteria established by a consultant for that search, then
9 that minority investment manager shall receive an invitation by
10 the board of trustees, or an investment committee of the board
11 of trustees, to present his or her firm for final consideration
12 of a contract. In the case where multiple minority investment
13 managers meet the criteria of this Section, the staff may
14 choose the most qualified firm or firms to present to the
15 board.

16 The use of a minority investment manager does not
17 constitute a transfer of investment authority for the purposes
18 of subsection (2) of this Section.

19 (10) Beginning January 1, 2016, it shall be the
20 aspirational goal for a retirement system, pension fund, or
21 investment board subject to this Code to use emerging
22 investment managers for not less than 20% of the total funds
23 under management. Furthermore, it shall be the aspirational
24 goal that not less than 20% of investment advisors be
25 minorities, women, and persons with disabilities as those terms
26 are defined in the Business Enterprise for Minorities, Women,

1 and Persons with Disabilities Act. It shall be the aspirational
2 goal to utilize businesses owned by minorities, women, and
3 persons with disabilities for not less than 20% of contracts
4 awarded for "information technology services", "accounting
5 services", "insurance brokers", "architectural and engineering
6 services", and "legal services" as those terms are defined in
7 the Act.

8 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17;
9 100-902, eff. 8-17-18.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.