

# HB3061



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3061

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

LRB100 09761 RPS 19930 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, and  
10 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  
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 "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, companies that contract to build a border wall,  
3 Iran-restricted companies, and Sudan-restricted companies.

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

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

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

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

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

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

26 (1) reviewing and relying on publicly available

1 information regarding Iran-restricted companies,  
2 Sudan-restricted companies, and companies that boycott  
3 Israel, including information provided by nonprofit  
4 organizations, research firms, and government entities;

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

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

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

16 By July 1, 2017, the Illinois Investment Policy Board shall  
17 make its best efforts to identify all companies that contract  
18 to build a border wall and include those companies in the list  
19 of restricted companies distributed to each retirement system.  
20 These efforts shall include the following, as appropriate in  
21 the Illinois Investment Policy Board's judgment:

22 (1) reviewing and relying on publicly available  
23 information regarding companies that contract to build a  
24 border wall, including information provided by nonprofit  
25 organizations, research firms, and government entities;

26 (2) contacting asset managers contracted by the

1 retirement systems that invest in companies that contract  
2 to build a border wall;

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

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

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

13 (e) The Illinois Investment Policy Board shall adhere to  
14 the following procedures for companies on the list of  
15 restricted companies:

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

21 (2) If, following the Illinois Investment Policy  
22 Board's engagement pursuant to this subsection (e) with a  
23 restricted company, that company ceases activity that  
24 designates the company to be an Iran-restricted company, a  
25 Sudan-restricted company, or a company that boycotts  
26 Israel, the company shall be removed from the list of

1 restricted companies and the provisions of this Section  
2 shall cease to apply to it unless it resumes such  
3 activities.

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

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

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

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

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

1 fund, the retirement system shall replace all applicable  
2 investments with investments in the similar fund in an  
3 expedited timeframe consistent with prudent investing  
4 standards.

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

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

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

25 (j) With respect to actions taken in compliance with this  
26 Section, including all good-faith determinations regarding



1 companies as required by this Section, the retirement system  
2 and Illinois Investment Policy Board are exempt from any  
3 conflicting statutory or common law obligations, including any  
4 fiduciary duties under this Article and any obligations with  
5 respect to choice of asset managers, investment funds, or  
6 investments for the retirement system's securities portfolios.

7 (k) It is not the intent of the General Assembly in  
8 enacting Public Act 99-128 ~~this amendatory Act of the 99th~~  
9 ~~General Assembly~~ to cause divestiture from any company based in  
10 the United States of America. The Illinois Investment Policy  
11 Board shall consider this intent when developing or reviewing  
12 the list of restricted companies.

13 (l) If any provision of Public Act 99-128 or this  
14 amendatory Act of the 100th General Assembly ~~this amendatory~~  
15 ~~Act of the 99th General Assembly~~ or its application to any  
16 person or circumstance is held invalid, the invalidity of that  
17 provision or application does not affect other provisions or  
18 applications of Public Act 99-128 or this amendatory Act of the  
19 100th General Assembly ~~this amendatory Act of the 99th General~~  
20 ~~Assembly~~ that can be given effect without the invalid provision  
21 or application.

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

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