



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1389

Introduced 2/13/2019, by Sen. Chuck Weaver

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-109.1	from Ch. 108 1/2, par. 1-109.1
40 ILCS 5/1-110	from Ch. 108 1/2, par. 1-110
40 ILCS 5/1-110.6	
40 ILCS 5/1-113.1	
40 ILCS 5/1-113.4a	
40 ILCS 5/1-113.5	
40 ILCS 5/1-113.14	
40 ILCS 5/1-113.16	
40 ILCS 5/1-113.20	
40 ILCS 5/1-150	
40 ILCS 5/1-113.2 rep.	
40 ILCS 5/1-113.3 rep.	
40 ILCS 5/1-113.4 rep.	

Amends the General Provisions Article of the Illinois Pension Code. Removes provisions specifying, based on the net assets of the pension fund, types of investments that a downstate police or downstate firefighter pension fund may make. Removes provisions requiring an investment adviser for investments in certain common and preferred stocks. Removes certain limitations on the percentage of a pension fund's net assets that may be invested in certain types of investments. Makes conforming changes. Effective immediately.

LRB101 07319 RPS 52359 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 Sections 1-109.1, 1-110, 1-110.6, 1-113.1, 1-113.4a, 1-113.5,
6 1-113.14, 1-113.16, 1-113.20, and 1-150 as follows:

7 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

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

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

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

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

22 (2) The board of trustees of a pension fund established
23 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not

1 transfer its investment authority, nor transfer the assets of
2 the fund to any other person or entity for the purpose of
3 consolidating or merging its assets and management with any
4 other pension fund or public investment authority, unless the
5 board resolution authorizing such transfer is submitted for
6 approval to the contributors and pensioners of the fund at
7 elections held not less than 30 days after the adoption of such
8 resolution by the board, and such resolution is approved by a
9 majority of the votes cast on the question in both the
10 contributors election and the pensioners election. The
11 election procedures and qualifications governing the election
12 of trustees shall govern the submission of resolutions for
13 approval under this paragraph, insofar as they may be made
14 applicable.

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

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

1 "women-owned business" or "business owned by a person with a
2 disability" as those terms are defined in the Business
3 Enterprise for Minorities, Women, and Persons with
4 Disabilities Act.

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

16 A ~~On or before January 1, 2010, a~~ retirement system,
17 pension fund, or investment board subject to this Code, except
18 those under Article 3 or 4 ~~whose investments are restricted by~~
19 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
20 forth goals for utilization of emerging investment managers.
21 This policy shall include quantifiable goals for the management
22 of assets in specific asset classes by emerging investment
23 managers. The retirement system, pension fund, or investment
24 board shall establish 3 separate goals for: (i) emerging
25 investment managers that are minority-owned businesses; (ii)
26 emerging investment managers that are women-owned businesses;

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

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

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

24 (5) Each retirement system, pension fund, or investment
25 board subject to this Code, except those under Article 3 or 4
26 ~~whose investments are restricted by Section 1-113.2 of this~~

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

10 (6) ~~A On or before January 1, 2010,~~ a retirement system,
11 pension fund, or investment board subject to this Code, except
12 those under Article 3 or 4 ~~whose investments are restricted by~~
13 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
14 forth goals for utilization of businesses owned by minorities,
15 women, and persons with disabilities for all contracts and
16 services. The goals established shall be based on the
17 percentage of total dollar amount of all contracts let to
18 minority-owned businesses, women-owned businesses, and
19 businesses owned by a person with a disability, as those terms
20 are defined in the Business Enterprise for Minorities, Women,
21 and Persons with Disabilities Act. The retirement system,
22 pension fund, or investment board shall annually review the
23 goals established under this subsection.

24 (7) ~~A On or before January 1, 2010,~~ a retirement system,
25 pension fund, or investment board subject to this Code, except
26 those under Article 3 or 4 ~~whose investments are restricted by~~

1 ~~Section 1-113.2~~ of this Code, shall adopt a policy that sets
2 forth goals for increasing the utilization of minority
3 broker-dealers. For the purposes of this Code, "minority
4 broker-dealer" means a qualified broker-dealer who meets the
5 definition of "minority-owned business", "women-owned
6 business", or "business owned by a person with a disability",
7 as those terms are defined in the Business Enterprise for
8 Minorities, Women, and Persons with Disabilities Act. The
9 retirement system, pension fund, or investment board shall
10 annually review the goals established under this Section.

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

1 specific actions undertaken to increase the use of minority
2 broker-dealers; and (v) the policy adopted under subsection (9)
3 of this Section.

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

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

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

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

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

22 (10) Beginning January 1, 2016, it shall be the
23 aspirational goal for a retirement system, pension fund, or
24 investment board subject to this Code to use emerging
25 investment managers for not less than 20% of the total funds
26 under management. Furthermore, it shall be the aspirational

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

11 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17;
12 100-902, eff. 8-17-18.)

13 (40 ILCS 5/1-110) (from Ch. 108 1/2, par. 1-110)

14 Sec. 1-110. Prohibited Transactions.

15 (a) A fiduciary with respect to a retirement system,
16 pension fund, or investment board shall not cause the
17 retirement system or pension fund to engage in a transaction if
18 he or she knows or should know that such transaction
19 constitutes a direct or indirect:

20 (1) Sale or exchange, or leasing of any property from
21 the retirement system or pension fund to a party in
22 interest for less than adequate consideration, or from a
23 party in interest to a retirement system or pension fund
24 for more than adequate consideration.

25 (2) Lending of money or other extension of credit from

1 the retirement system or pension fund to a party in
2 interest without the receipt of adequate security and a
3 reasonable rate of interest, or from a party in interest to
4 a retirement system or pension fund with the provision of
5 excessive security or an unreasonably high rate of
6 interest.

7 (3) Furnishing of goods, services or facilities from
8 the retirement system or pension fund to a party in
9 interest for less than adequate consideration, or from a
10 party in interest to a retirement system or pension fund
11 for more than adequate consideration.

12 (4) Transfer to, or use by or for the benefit of, a
13 party in interest of any assets of a retirement system or
14 pension fund for less than adequate consideration.

15 (b) A fiduciary with respect to a retirement system or
16 pension fund established under this Code shall not:

17 (1) Deal with the assets of the retirement system or
18 pension fund in his own interest or for his own account;

19 (2) In his individual or any other capacity act in any
20 transaction involving the retirement system or pension
21 fund on behalf of a party whose interests are adverse to
22 the interests of the retirement system or pension fund or
23 the interests of its participants or beneficiaries; or

24 (3) Receive any consideration for his own personal
25 account from any party dealing with the retirement system
26 or pension fund in connection with a transaction involving

1 the assets of the retirement system or pension fund.

2 (c) Nothing in this Section shall be construed to prohibit
3 any trustee from:

4 (1) Receiving any benefit to which he may be entitled
5 as a participant or beneficiary in the retirement system or
6 pension fund.

7 (2) Receiving any reimbursement of expenses properly
8 and actually incurred in the performance of his duties with
9 the retirement system or pension fund.

10 (3) Serving as a trustee in addition to being an
11 officer, employee, agent or other representative of a party
12 in interest.

13 (d) A fiduciary of a pension fund established under Article
14 3 or 4 shall not knowingly cause or advise the pension fund to
15 engage in an investment transaction when the fiduciary (i) has
16 any direct interest in the income, gains, or profits of the
17 investment adviser through which the investment transaction is
18 made or (ii) has a business relationship with that investment
19 adviser that would result in a pecuniary benefit to the
20 fiduciary as a result of the investment transaction.

21 Violation of this subsection (d) is a Class 4 felony.

22 (e) A board member, employee, or consultant with respect to
23 a retirement system, pension fund, or investment board subject
24 to this Code, except those under Article 3 or 4 ~~whose~~
25 ~~investments are restricted by Section 1-113.2,~~ shall not
26 knowingly cause or advise the retirement system, pension fund,

1 or investment board to engage in an investment transaction with
2 an investment adviser when the board member, employee,
3 consultant, or their spouse (i) has any direct interest in the
4 income, gains, or profits of the investment adviser through
5 which the investment transaction is made or (ii) has a
6 relationship with that investment adviser that would result in
7 a pecuniary benefit to the board member, employee, or
8 consultant or spouse of such board member, employee, or
9 consultant as a result of the investment transaction. For
10 purposes of this subsection (e), a consultant includes an
11 employee or agent of a consulting firm who has greater than
12 7.5% ownership of the consulting firm.

13 Violation of this subsection (e) is a Class 4 felony.

14 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

15 (40 ILCS 5/1-110.6)

16 Sec. 1-110.6. Transactions prohibited by retirement
17 systems; Republic of the Sudan.

18 (a) The Government of the United States has determined that
19 Sudan is a nation that sponsors terrorism and genocide. The
20 General Assembly finds that acts of terrorism have caused
21 injury and death to Illinois and United States residents who
22 serve in the United States military, and pose a significant
23 threat to safety and health in Illinois. The General Assembly
24 finds that public employees and their families, including
25 police officers and firefighters, are more likely than others

1 to be affected by acts of terrorism. The General Assembly finds
2 that Sudan continues to solicit investment and commercial
3 activities by forbidden entities, including private market
4 funds. The General Assembly finds that investments in forbidden
5 entities are inherently and unduly risky, not in the interests
6 of public pensioners and Illinois taxpayers, and against public
7 policy. The General Assembly finds that Sudan's capacity to
8 sponsor terrorism and genocide depends on or is supported by
9 the activities of forbidden entities. The General Assembly
10 further finds and re-affirms that the people of the State,
11 acting through their representatives, do not want to be
12 associated with forbidden entities, genocide, and terrorism.

13 (b) For purposes of this Section:

14 "Business operations" means maintaining, selling, or
15 leasing equipment, facilities, personnel, or any other
16 apparatus of business or commerce in the Republic of the Sudan,
17 including the ownership or possession of real or personal
18 property located in the Republic of the Sudan.

19 "Certifying company" means a company that (1) directly
20 provides asset management services or advice to a retirement
21 system or (2) as directly authorized or requested by a
22 retirement system (A) identifies particular investment options
23 for consideration or approval; (B) chooses particular
24 investment options; or (C) allocates particular amounts to be
25 invested. If no company meets the criteria set forth in this
26 paragraph, then "certifying company" shall mean the retirement

1 system officer who, as designated by the board, executes the
2 investment decisions made by the board, or, in the alternative,
3 the company that the board authorizes to complete the
4 certification as the agent of that officer.

5 "Company" is any entity capable of affecting commerce,
6 including but not limited to (i) a government, government
7 agency, natural person, legal person, sole proprietorship,
8 partnership, firm, corporation, subsidiary, affiliate,
9 franchisor, franchisee, joint venture, trade association,
10 financial institution, utility, public franchise, provider of
11 financial services, trust, or enterprise; and (ii) any
12 association thereof.

13 "Department" means the Public Pension Division of the
14 Department of Financial and Professional Regulation.

15 "Forbidden entity" means any of the following:

16 (1) The government of the Republic of the Sudan and any
17 of its agencies, including but not limited to political
18 units and subdivisions;

19 (2) Any company that is wholly or partially managed or
20 controlled by the government of the Republic of the Sudan
21 and any of its agencies, including but not limited to
22 political units and subdivisions;

23 (3) Any company (i) that is established or organized
24 under the laws of the Republic of the Sudan or (ii) whose
25 principal place of business is in the Republic of the
26 Sudan;

1 (4) Any company (i) identified by the Office of Foreign
2 Assets Control in the United States Department of the
3 Treasury as sponsoring terrorist activities in the
4 Republic of the Sudan; or (ii) fined, penalized, or
5 sanctioned by the Office of Foreign Assets Control in the
6 United States Department of the Treasury for any violation
7 of any United States rules and restrictions relating to the
8 Republic of the Sudan that occurred at any time following
9 the effective date of this Act;

10 (5) Any publicly traded company that is individually
11 identified by an independent researching firm that
12 specializes in global security risk and that has been
13 retained by a certifying company as provided in subsection
14 (c) of this Section as being a company that owns or
15 controls property or assets located in, has employees or
16 facilities located in, provides goods or services to,
17 obtains goods or services from, has distribution
18 agreements with, issues credits or loans to, purchases
19 bonds or commercial paper issued by, or invests in (A) the
20 Republic of the Sudan; or (B) any company domiciled in the
21 Republic of the Sudan; and

22 (6) Any private market fund that fails to satisfy the
23 requirements set forth in subsections (d) and (e) of this
24 Section.

25 Notwithstanding the foregoing, the term "forbidden entity"
26 shall exclude (A) mutual funds that (i) are managed by an

1 investment company as defined and registered under the federal
2 Investment Company Act of 1940 and registered under the
3 Illinois Securities Law of 1953, (ii) have been in operation
4 for at least 5 years, (iii) have total net assets of
5 \$250,000,000 or more, and (iv) are comprised of diversified
6 portfolios of common or preferred stocks, bonds, or money
7 market instruments; ~~meet the requirements of item (iii) of~~
8 ~~paragraph (13) of Section 1-113.2~~ and (B) companies that
9 transact business in the Republic of the Sudan under the law,
10 license, or permit of the United States, including a license
11 from the United States Department of the Treasury, and
12 companies, except agencies of the Republic of the Sudan, who
13 are certified as Non-Government Organizations by the United
14 Nations, or who engage solely in (i) the provision of goods and
15 services intended to relieve human suffering or to promote
16 welfare, health, religious and spiritual activities, and
17 education or humanitarian purposes; or (ii) journalistic
18 activities.

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

23 "Republic of the Sudan" means those geographic areas of the
24 Republic of Sudan that are subject to sanction or other
25 restrictions placed on commercial activity imposed by the
26 United States Government due to an executive or congressional

1 declaration of genocide.

2 "Retirement system" means the State Employees' Retirement
3 System of Illinois, the Judges Retirement System of Illinois,
4 the General Assembly Retirement System, the State Universities
5 Retirement System, and the Teachers' Retirement System of the
6 State of Illinois.

7 (c) A retirement system shall not transfer or disburse
8 funds to, deposit into, acquire any bonds or commercial paper
9 from, or otherwise loan to or invest in any entity unless, as
10 provided in this Section, a certifying company certifies to the
11 retirement system that, (1) with respect to investments in a
12 publicly traded company, the certifying company has relied on
13 information provided by an independent researching firm that
14 specializes in global security risk and (2) 100% of the
15 retirement system's assets for which the certifying company
16 provides services or advice are not and have not been invested
17 or reinvested in any forbidden entity at any time after 4
18 months after the effective date of this Section.

19 The certifying company shall make the certification
20 required under this subsection (c) to a retirement system 6
21 months after the effective date of this Section and annually
22 thereafter. A retirement system shall submit the
23 certifications to the Department, and the Department shall
24 notify the Secretary of Financial and Professional Regulation
25 if a retirement system fails to do so.

26 (d) With respect to a commitment or investment made

1 pursuant to a written agreement executed prior to the effective
2 date of this Section, each private market fund shall submit to
3 the appropriate certifying company, at no additional cost to
4 the retirement system:

5 (1) an affidavit sworn under oath in which an expressly
6 authorized officer of the private market fund avers that
7 the private market fund (A) does not own or control any
8 property or asset located in the Republic of the Sudan and
9 (B) does not conduct business operations in the Republic of
10 the Sudan; or

11 (2) a certificate in which an expressly authorized
12 officer of the private market fund certifies that the
13 private market fund, based on reasonable due diligence, has
14 determined that, other than direct or indirect investments
15 in companies certified as Non-Government Organizations by
16 the United Nations, the private market fund has no direct
17 or indirect investment in any company (A) organized under
18 the laws of the Republic of the Sudan; (B) whose principal
19 place of business is in the Republic of the Sudan; or (C)
20 that conducts business operations in the Republic of the
21 Sudan. Such certificate shall be based upon the periodic
22 reports received by the private market fund, and the
23 private market fund shall agree that the certifying
24 company, directly or through an agent, or the retirement
25 system, as the case may be, may from time to time review
26 the private market fund's certification process.

1 (e) With respect to a commitment or investment made
2 pursuant to a written agreement executed after the effective
3 date of this Section, each private market fund shall, at no
4 additional cost to the retirement system:

5 (1) submit to the appropriate certifying company an
6 affidavit or certificate consistent with the requirements
7 pursuant to subsection (d) of this Section; or

8 (2) enter into an enforceable written agreement with
9 the retirement system that provides for remedies
10 consistent with those set forth in subsection (g) of this
11 Section if any of the assets of the retirement system shall
12 be transferred, loaned, or otherwise invested in any
13 company that directly or indirectly (A) has facilities or
14 employees in the Republic of the Sudan or (B) conducts
15 business operations in the Republic of the Sudan.

16 (f) In addition to any other penalties and remedies
17 available under the law of Illinois and the United States, any
18 transaction, other than a transaction with a private market
19 fund that is governed by subsections (g) and (h) of this
20 Section, that violates the provisions of this Act shall be
21 against public policy and voidable, at the sole discretion of
22 the retirement system.

23 (g) If a private market fund fails to provide the affidavit
24 or certification required in subsections (d) and (e) of this
25 Section, then the retirement system shall, within 90 days,
26 divest, or attempt in good faith to divest, the retirement

1 system's interest in the private market fund, provided that the
2 Board of the retirement system confirms through resolution that
3 the divestment does not have a material and adverse impact on
4 the retirement system. The retirement system shall immediately
5 notify the Department, and the Department shall notify all
6 other retirement systems, as soon as practicable, by posting
7 the name of the private market fund on the Department's
8 Internet website or through e-mail communications. No other
9 retirement system may enter into any agreement under which the
10 retirement system directly or indirectly invests in the private
11 market fund unless the private market fund provides that
12 retirement system with the affidavit or certification required
13 in subsections (d) and (e) of this Section and complies with
14 all other provisions of this Section.

15 (h) If a private market fund fails to fulfill its
16 obligations under any agreement provided for in paragraph (2)
17 of subsection (e) of this Section, the retirement system shall
18 immediately take legal and other action to obtain satisfaction
19 through all remedies and penalties available under the law and
20 the agreement itself. The retirement system shall immediately
21 notify the Department, and the Department shall notify all
22 other retirement systems, as soon as practicable, by posting
23 the name of the private market fund on the Department's
24 Internet website or through e-mail communications, and no other
25 retirement system may enter into any agreement under which the
26 retirement system directly or indirectly invests in the private

1 market fund.

2 (i) This Section shall have full force and effect during
3 any period in which the Republic of the Sudan, or the officials
4 of the government of that Republic, are subject to sanctions
5 authorized under any statute or executive order of the United
6 States or until such time as the State Department of the United
7 States confirms in the federal register or through other means
8 that the Republic of the Sudan is no longer subject to
9 sanctions by the government of the United States.

10 (j) If any provision of this Section or its application to
11 any person or circumstance is held invalid, the invalidity of
12 that provision or application does not affect other provisions
13 or applications of this Section that can be given effect
14 without the invalid provision or application.

15 (Source: P.A. 95-521, eff. 8-28-07.)

16 (40 ILCS 5/1-113.1)

17 Sec. 1-113.1. Investment authority of pension funds
18 established under Article 3 or 4. The board of trustees of a
19 police pension fund established under Article 3 of this Code or
20 firefighter pension fund established under Article 4 of this
21 Code shall draw pension funds from the treasurer of the
22 municipality and, beginning January 1, 1998, invest any part
23 thereof in the name of the board ~~in the items listed in~~
24 ~~Sections 1-113.2 through 1-113.4~~ according to the limitations
25 and requirements of this Article. These investments shall be

1 made with the care, skill, prudence, and diligence that a
2 prudent person acting in like capacity and familiar with such
3 matters would use in the conduct of an enterprise of like
4 character with like aims.

5 Interest and any other income from the investments shall be
6 credited to the pension fund.

7 ~~For the purposes of Sections 1-113.2 through 1-113.11, the~~
8 ~~"net assets" of a pension fund include both the cash and~~
9 ~~invested assets of the pension fund.~~

10 (Source: P.A. 90-507, eff. 8-22-97.)

11 (40 ILCS 5/1-113.4a)

12 Sec. 1-113.4a. Pension fund investments in common and
13 preferred stocks and mutual funds ~~List of additional permitted~~
14 ~~investments for Article 3 and 4 pension funds with net assets~~
15 ~~of \$10,000,000 or more.~~

16 (a) A ~~In addition to the items in Sections 1-113.2 and~~
17 ~~1-113.3,~~ a pension fund established under Article 3 or 4 that
18 ~~has net assets of at least \$10,000,000 and~~ has appointed an
19 investment adviser, as defined under Sections 1-101.4 and
20 1-113.5, may, through that investment adviser, invest an
21 additional portion of its assets in common and preferred stocks
22 and mutual funds.

23 (b) The stocks must meet all of the following requirements:

24 (1) The common stocks must be listed on a national
25 securities exchange or board of trade (as defined in the

1 Federal Securities Exchange Act of 1934 and set forth in
2 paragraph G of Section 3 of the Illinois Securities Law of
3 1953) or quoted in the National Association of Securities
4 Dealers Automated Quotation System National Market System.

5 (2) The securities must be of a corporation in
6 existence for at least 5 years.

7 (3) The market value of stock in any one corporation
8 may not exceed 5% of the cash and invested assets of the
9 pension fund, and the investments in the stock of any one
10 corporation may not exceed 5% of the total outstanding
11 stock of that corporation.

12 (4) The straight preferred stocks or convertible
13 preferred stocks must be issued or guaranteed by a
14 corporation whose common stock qualifies for investment by
15 the board.

16 (c) The mutual funds must meet the following requirements:

17 (1) The mutual fund must be managed by an investment
18 company registered under the Federal Investment Company
19 Act of 1940 and registered under the Illinois Securities
20 Law of 1953.

21 (2) The mutual fund must have been in operation for at
22 least 5 years.

23 (3) The mutual fund must have total net assets of
24 \$250,000,000 or more.

25 (4) The mutual fund must be comprised of a diversified
26 portfolio of common or preferred stocks, bonds, or money

1 market instruments.

2 (d) (Blank). ~~A pension fund's total investment in the items~~
3 ~~authorized under this Section and Section 1-113.3 shall not~~
4 ~~exceed 50% effective July 1, 2011 and 55% effective July 1,~~
5 ~~2012 of the market value of the pension fund's net present~~
6 ~~assets stated in its most recent annual report on file with the~~
7 ~~Department of Insurance.~~

8 (e) A pension fund that invests funds under this Section
9 shall electronically file with the Division any reports of its
10 investment activities that the Division may require, at the
11 time and in the format required by the Division.

12 (Source: P.A. 96-1495, eff. 1-1-11.)

13 (40 ILCS 5/1-113.5)

14 Sec. 1-113.5. Investment advisers and investment services
15 for all Article 3 or 4 pension funds.

16 (a) The board of trustees of a pension fund may appoint
17 investment advisers as defined in Section 1-101.4. ~~The board of~~
18 ~~any pension fund investing in common or preferred stock under~~
19 ~~Section 1-113.4 shall appoint an investment adviser before~~
20 ~~making such investments.~~

21 The investment adviser shall be a fiduciary, as defined in
22 Section 1-101.2, with respect to the pension fund and shall be
23 one of the following:

24 (1) an investment adviser registered under the federal
25 Investment Advisers Act of 1940 and the Illinois Securities

1 Law of 1953;

2 (2) a bank or trust company authorized to conduct a
3 trust business in Illinois;

4 (3) a life insurance company authorized to transact
5 business in Illinois; or

6 (4) an investment company as defined and registered
7 under the federal Investment Company Act of 1940 and
8 registered under the Illinois Securities Law of 1953.

9 (a-5) Notwithstanding any other provision of law, a person
10 or entity that provides consulting services (referred to as a
11 "consultant" in this Section) to a pension fund with respect to
12 the selection of fiduciaries may not be awarded a contract to
13 provide those consulting services that is more than 5 years in
14 duration. No contract to provide such consulting services may
15 be renewed or extended. At the end of the term of a contract,
16 however, the contractor is eligible to compete for a new
17 contract. No person shall attempt to avoid or contravene the
18 restrictions of this subsection by any means. All offers from
19 responsive offerors shall be accompanied by disclosure of the
20 names and addresses of the following:

21 (1) The offeror.

22 (2) Any entity that is a parent of, or owns a
23 controlling interest in, the offeror.

24 (3) Any entity that is a subsidiary of, or in which a
25 controlling interest is owned by, the offeror.

26 Beginning on July 1, 2008, a person, other than a trustee

1 or an employee of a pension fund or retirement system, may not
2 act as a consultant under this Section unless that person is at
3 least one of the following: (i) registered as an investment
4 adviser under the federal Investment Advisers Act of 1940 (15
5 U.S.C. 80b-1, et seq.); (ii) registered as an investment
6 adviser under the Illinois Securities Law of 1953; (iii) a
7 bank, as defined in the Investment Advisers Act of 1940; or
8 (iv) an insurance company authorized to transact business in
9 this State.

10 (b) All investment advice and services provided by an
11 investment adviser or a consultant appointed under this Section
12 shall be rendered pursuant to a written contract between the
13 investment adviser and the board, and in accordance with the
14 board's investment policy.

15 The contract shall include all of the following:

16 (1) acknowledgement in writing by the investment
17 adviser that he or she is a fiduciary with respect to the
18 pension fund;

19 (2) the board's investment policy;

20 (3) full disclosure of direct and indirect fees,
21 commissions, penalties, and any other compensation that
22 may be received by the investment adviser, including
23 reimbursement for expenses; and

24 (4) a requirement that the investment adviser submit
25 periodic written reports, on at least a quarterly basis,
26 for the board's review at its regularly scheduled meetings.

1 All returns on investment shall be reported as net returns
2 after payment of all fees, commissions, and any other
3 compensation.

4 (b-5) Each contract described in subsection (b) shall also
5 include (i) full disclosure of direct and indirect fees,
6 commissions, penalties, and other compensation, including
7 reimbursement for expenses, that may be paid by or on behalf of
8 the investment adviser or consultant in connection with the
9 provision of services to the pension fund and (ii) a
10 requirement that the investment adviser or consultant update
11 the disclosure promptly after a modification of those payments
12 or an additional payment.

13 Within 30 days after the effective date of this amendatory
14 Act of the 95th General Assembly, each investment adviser and
15 consultant providing services on the effective date or subject
16 to an existing contract for the provision of services must
17 disclose to the board of trustees all direct and indirect fees,
18 commissions, penalties, and other compensation paid by or on
19 behalf of the investment adviser or consultant in connection
20 with the provision of those services and shall update that
21 disclosure promptly after a modification of those payments or
22 an additional payment.

23 A person required to make a disclosure under subsection (d)
24 is also required to disclose direct and indirect fees,
25 commissions, penalties, or other compensation that shall or may
26 be paid by or on behalf of the person in connection with the

1 rendering of those services. The person shall update the
2 disclosure promptly after a modification of those payments or
3 an additional payment.

4 The disclosures required by this subsection shall be in
5 writing and shall include the date and amount of each payment
6 and the name and address of each recipient of a payment.

7 (c) Within 30 days after appointing an investment adviser
8 or consultant, the board shall submit a copy of the contract to
9 the Division of Insurance of the Department of Financial and
10 Professional Regulation.

11 (d) Investment services provided by a person other than an
12 investment adviser appointed under this Section, including but
13 not limited to services provided by the kinds of persons listed
14 in items (1) through (4) of subsection (a), shall be rendered
15 only after full written disclosure of direct and indirect fees,
16 commissions, penalties, and any other compensation that shall
17 or may be received by the person rendering those services.

18 (e) The board of trustees of each pension fund shall retain
19 records of investment transactions in accordance with the rules
20 of the Department of Financial and Professional Regulation.

21 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

22 (40 ILCS 5/1-113.14)

23 Sec. 1-113.14. Investment services for retirement systems,
24 pension funds, and investment boards, except those funds
25 established under Articles 3 and 4.

1 (a) For the purposes of this Section, "investment services"
2 means services provided by an investment adviser or a
3 consultant other than qualified fund-of-fund management
4 services as defined in Section 1-113.15.

5 (b) The selection and appointment of an investment adviser
6 or consultant for investment services by the board of a
7 retirement system, pension fund, or investment board subject to
8 this Code, except those under Article 3 or 4 ~~whose investments~~
9 ~~are restricted by Section 1-113.2~~, shall be made and awarded in
10 accordance with this Section. All contracts for investment
11 services shall be awarded by the board using a competitive
12 process that is substantially similar to the process required
13 for the procurement of professional and artistic services under
14 Article 35 of the Illinois Procurement Code. Each board of
15 trustees shall adopt a policy in accordance with this
16 subsection (b) within 60 days after the effective date of this
17 amendatory Act of the 96th General Assembly. The policy shall
18 be posted on its web site and filed with the Illinois
19 Procurement Policy Board. Exceptions to this Section are
20 allowed for (i) sole source procurements, (ii) emergency
21 procurements, (iii) at the discretion of the pension fund,
22 retirement system, or board of investment, contracts that are
23 nonrenewable and one year or less in duration, so long as the
24 contract has a value of less than \$20,000, and (iv) in the
25 discretion of the pension fund, retirement system, or
26 investment board, contracts for follow-on funds with the same

1 fund sponsor through closed-end funds. All exceptions granted
2 under this Section must be published on the system's, fund's,
3 or board's web site, shall name the person authorizing the
4 procurement, and shall include a brief explanation of the
5 reason for the exception.

6 A person, other than a trustee or an employee of a
7 retirement system, pension fund, or investment board, may not
8 act as a consultant or investment adviser under this Section
9 unless that person is registered as an investment adviser under
10 the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1,
11 et seq.) or a bank, as defined in the federal Investment
12 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

13 (c) Investment services provided by an investment adviser
14 or a consultant appointed under this Section shall be rendered
15 pursuant to a written contract between the investment adviser
16 or consultant and the board.

17 The contract shall include all of the following:

18 (1) Acknowledgement in writing by the investment
19 adviser or consultant that he or she is a fiduciary with
20 respect to the pension fund or retirement system.

21 (2) The description of the board's investment policy
22 and notice that the policy is subject to change.

23 (3) (i) Full disclosure of direct and indirect fees,
24 commissions, penalties, and other compensation, including
25 reimbursement for expenses, that may be paid by or on
26 behalf of the consultant in connection with the provision

1 of services to the pension fund or retirement system and
2 (ii) a requirement that the consultant update the
3 disclosure promptly after a modification of those payments
4 or an additional payment.

5 (4) A requirement that the investment adviser or
6 consultant, in conjunction with the board's staff, submit
7 periodic written reports, on at least a quarterly basis,
8 for the board's review at its regularly scheduled meetings.
9 All returns on investment shall be reported as net returns
10 after payment of all fees, commissions, and any other
11 compensation.

12 (5) Disclosure of the names and addresses of (i) the
13 consultant or investment adviser; (ii) any entity that is a
14 parent of, or owns a controlling interest in, the
15 consultant or investment adviser; (iii) any entity that is
16 a subsidiary of, or in which a controlling interest is
17 owned by, the consultant or investment adviser; (iv) any
18 persons who have an ownership or distributive income share
19 in the consultant or investment adviser that is in excess
20 of 7.5%; or (v) serves as an executive officer of the
21 consultant or investment adviser.

22 (6) A disclosure of the names and addresses of all
23 subcontractors, if applicable, and the expected amount of
24 money each will receive under the contract, including an
25 acknowledgment that the contractor must promptly make
26 notification, in writing, if at any time during the term of

1 the contract a contractor adds or changes any
2 subcontractors. For purposes of this subparagraph (6),
3 "subcontractor" does not include non-investment related
4 professionals or professionals offering services that are
5 not directly related to the investment of assets, such as
6 legal counsel, actuary, proxy-voting services, services
7 used to track compliance with legal standards, and
8 investment fund of funds where the board has no direct
9 contractual relationship with the investment advisers or
10 partnerships.

11 (7) A description of service to be performed.

12 (8) A description of the need for the service.

13 (9) A description of the plan for post-performance
14 review.

15 (10) A description of the qualifications necessary.

16 (11) The duration of the contract.

17 (12) The method for charging and measuring cost.

18 (d) Notwithstanding any other provision of law, a
19 retirement system, pension fund, or investment board subject to
20 this Code, except those under Article 3 or 4 ~~whose investments~~
21 ~~are restricted by Section 1-113.2~~ of this Code, shall not enter
22 into a contract with a consultant that exceeds 5 years in
23 duration. No contract to provide consulting services may be
24 renewed or extended. At the end of the term of a contract,
25 however, the consultant is eligible to compete for a new
26 contract as provided in this Section. No retirement system,

1 pension fund, or investment board shall attempt to avoid or
2 contravene the restrictions of this subsection (d) by any
3 means.

4 (e) Within 60 days after the effective date of this
5 amendatory Act of the 96th General Assembly, each investment
6 adviser or consultant currently providing services or subject
7 to an existing contract for the provision of services must
8 disclose to the board of trustees all direct and indirect fees,
9 commissions, penalties, and other compensation paid by or on
10 behalf of the investment adviser or consultant in connection
11 with the provision of those services and shall update that
12 disclosure promptly after a modification of those payments or
13 an additional payment. The person shall update the disclosure
14 promptly after a modification of those payments or an
15 additional payment. The disclosures required by this
16 subsection (e) shall be in writing and shall include the date
17 and amount of each payment and the name and address of each
18 recipient of a payment.

19 (f) The retirement system, pension fund, or board of
20 investment shall develop uniform documents that shall be used
21 for the solicitation, review, and acceptance of all investment
22 services. The form shall include the terms contained in
23 subsection (c) of this Section. All such uniform documents
24 shall be posted on the retirement system's, pension fund's, or
25 investment board's web site.

26 (g) A description of every contract for investment services

1 shall be posted in a conspicuous manner on the web site of the
2 retirement system, pension fund, or investment board. The
3 description must include the name of the person or entity
4 awarded a contract, the total amount applicable to the
5 contract, the total fees paid or to be paid, and a disclosure
6 approved by the board describing the factors that contributed
7 to the selection of an investment adviser or consultant.

8 (Source: P.A. 98-433, eff. 8-16-13.)

9 (40 ILCS 5/1-113.16)

10 Sec. 1-113.16. Investment transparency.

11 (a) The purpose of this Section is to provide for
12 transparency in the investment of retirement or pension funds
13 and require the reporting of full and complete information
14 regarding the investments by pension funds, retirement
15 systems, and investment boards.

16 (b) A retirement system, pension fund, or investment board
17 subject to this Code and any committees established by such
18 system, fund, or board must comply with the Open Meetings Act.

19 (c) Any retirement system, pension fund, or investment
20 board subject to this Code that establishes a committee shall
21 ensure that the majority of the members on such committee are
22 board members. If any member of a committee is not a member of
23 the board for the system, fund, or board, then that committee
24 member shall be a fiduciary.

25 (d) A retirement system, pension fund, or investment board

1 subject to this Code, except those under Article 3 or 4 ~~whose~~
2 ~~investments are restricted by Section 1-113.2,~~ shall maintain
3 an official web site and make available in a clear and
4 conspicuous manner, and update at least quarterly, all of the
5 following information concerning the investment of funds:

6 (1) The total amount of funds held by the pension fund,
7 retirement system, or investment board.

8 (2) The asset allocation for the investments made by
9 the pension fund, retirement system, or investment board.

10 (3) Current and historic return information.

11 (4) A detailed listing of the investment advisers for
12 all asset classes.

13 (5) Performance of investments compared against
14 established benchmarks.

15 (6) A detailed list of all consultants doing business
16 with the retirement system, pension fund, or investment
17 board.

18 (7) A detailed list of all contractors, other than
19 investment advisers and consultants, doing business with
20 the retirement system, pension fund, or investment board.

21 (8) Any requests for investment services.

22 (9) The names and email addresses of all board members,
23 directors, and senior staff.

24 (10) The report required under Section 1-109.1 of this
25 Code, if applicable.

26 (11) The description of each contract required under

1 subsection (g) of Section 1-113.14 of this Code, if
2 applicable.

3 (e) A pension fund under Article 3 or 4 ~~whose investments~~
4 ~~are restricted by Section 1-113.2~~ of this Code shall make the
5 information required in subsection (d) of this Section
6 available on its web site or in a location that allows the
7 information to be available for inspection by the public.

8 (f) Nothing in this Section requires the pension fund,
9 retirement system, or investment board to make information
10 available on the Internet that is exempt from inspection and
11 copying under the Freedom of Information Act.

12 (Source: P.A. 96-6, eff. 4-3-09.)

13 (40 ILCS 5/1-113.20)

14 Sec. 1-113.20. Investment strategies; explicit and
15 implicit costs. Every pension fund, retirement system, and
16 investment board created under this Code, except those under
17 Article 3 or 4 ~~whose investments are restricted by Section~~
18 ~~1-113.2~~ of this Code, shall instruct the fund's, system's, or
19 board's investment advisors to utilize investment strategies
20 designed to ensure that all securities transactions are
21 executed in such a manner that the total explicit and implicit
22 costs and total proceeds in every transaction are the most
23 favorable under the circumstances.

24 (Source: P.A. 96-753, eff. 8-25-09.)

1 (40 ILCS 5/1-150)

2 Sec. 1-150. Approval of travel or educational mission. The
3 expenses for travel or educational missions of a board member
4 of a retirement system, pension fund, or investment board
5 created under this Code, except those under Article 3 or 4
6 ~~whose investments are restricted by Section 1-113.2~~ of this
7 Code, must be approved by a majority of the board prior to the
8 travel or educational mission.

9 (Source: P.A. 96-6, eff. 4-3-09.)

10 (40 ILCS 5/1-113.2 rep.)

11 (40 ILCS 5/1-113.3 rep.)

12 (40 ILCS 5/1-113.4 rep.)

13 Section 10. The Illinois Pension Code is amended by
14 repealing Sections 1-113.2, 1-113.3, and 1-113.4.

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