



Rep. Elizabeth Hernandez

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LRB102 05177 RPS 25177 a

1 AMENDMENT TO HOUSE BILL 232

2 AMENDMENT NO. _____. Amend House Bill 232 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Section 1-110.16 and by adding Section 1-110.17 as
6 follows:

7 (40 ILCS 5/1-110.16)

8 Sec. 1-110.16. Transactions prohibited by retirement
9 systems; companies that boycott Israel, for-profit companies
10 that contract to shelter migrant children, Iran-restricted
11 companies, Sudan-restricted companies, and expatriated
12 entities.

13 (a) As used in this Section:

14 "Boycott Israel" means engaging in actions that are
15 politically motivated and are intended to penalize,
16 inflict economic harm on, or otherwise limit commercial

1 relations with the State of Israel or companies based in
2 the State of Israel or in territories controlled by the
3 State of Israel.

4 "Company" means any sole proprietorship, organization,
5 association, corporation, partnership, joint venture,
6 limited partnership, limited liability partnership,
7 limited liability company, or other entity or business
8 association, including all wholly owned subsidiaries,
9 majority-owned subsidiaries, parent companies, or
10 affiliates of those entities or business associations,
11 that exist for the purpose of making profit.

12 "Contract to shelter migrant children" means entering
13 into a contract with the federal government to shelter
14 migrant children under the federal Unaccompanied Alien
15 Children Program or a substantially similar federal
16 program.

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

19 "Direct holdings" in a company means all publicly
20 traded securities of that company that are held directly
21 by the retirement system in an actively managed account or
22 fund in which the retirement system owns all shares or
23 interests.

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

26 "Indirect holdings" in a company means all securities

1 of that company that are held in an account or fund, such
2 as a mutual fund, managed by one or more persons not
3 employed by the retirement system, in which the retirement
4 system owns shares or interests together with other
5 investors not subject to the provisions of this Section or
6 that are held in an index fund.

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

9 "Private market fund" means any private equity fund,
10 private equity funds of funds, venture capital fund, hedge
11 fund, hedge fund of funds, real estate fund, or other
12 investment vehicle that is not publicly traded.

13 "Restricted companies" means companies that boycott
14 Israel, for-profit companies that contract to shelter
15 migrant children, Iran-restricted companies,
16 Sudan-restricted companies, and expatriated entities.

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

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

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

1 4 members.

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

5 (d) By April 1, 2016, the Illinois Investment Policy Board
6 shall make its best efforts to identify all Iran-restricted
7 companies, Sudan-restricted companies, and companies that
8 boycott Israel and assemble those identified companies into a
9 list of restricted companies, to be distributed to each
10 retirement system.

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

13 (1) reviewing and relying on publicly available
14 information regarding Iran-restricted companies,
15 Sudan-restricted companies, and companies that boycott
16 Israel, including information provided by nonprofit
17 organizations, research firms, and government entities;

18 (2) contacting asset managers contracted by the
19 retirement systems that invest in Iran-restricted
20 companies, Sudan-restricted companies, and companies that
21 boycott Israel;

22 (3) contacting other institutional investors that have
23 divested from or engaged with Iran-restricted companies,
24 Sudan-restricted companies, and companies that boycott
25 Israel; and

26 (4) retaining an independent research firm to identify

1 Iran-restricted companies, Sudan-restricted companies,
2 and companies that boycott Israel.

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

9 By April 1, 2018, the Illinois Investment Policy Board
10 shall make its best efforts to identify all expatriated
11 entities and include those companies in the list of restricted
12 companies distributed to each retirement system and the State
13 Treasurer. These efforts shall include the following, as
14 appropriate in the Illinois Investment Policy Board's
15 judgment:

16 (1) reviewing and relying on publicly available
17 information regarding expatriated entities, including
18 information provided by nonprofit organizations, research
19 firms, and government entities;

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

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

24 (4) retaining an independent research firm to identify
25 expatriated entities.

26 By July 1, 2022, the Illinois Investment Policy Board

1 shall make its best efforts to identify all for-profit
2 companies that contract to shelter migrant children and
3 include those companies in the list of restricted companies
4 distributed to each retirement system. These efforts shall
5 include the following, as appropriate in the Illinois
6 Investment Policy Board's judgment:

7 (1) reviewing and relying on publicly available
8 information regarding for-profit companies that contract
9 to shelter migrant children, including information
10 provided by nonprofit organizations, research firms, and
11 government entities;

12 (2) contacting asset managers contracted by the
13 retirement systems that invest in for-profit companies
14 that contract to shelter migrant children;

15 (3) contacting other institutional investors that have
16 divested from or engaged with for-profit companies that
17 contract to shelter migrant children; and

18 (4) retaining an independent research firm to identify
19 for-profit companies that contract to shelter migrant
20 children.

21 (e) The Illinois Investment Policy Board shall adhere to
22 the following procedures for companies on the list of
23 restricted companies:

24 (1) For each company newly identified in subsection
25 (d), the Illinois Investment Policy Board shall send a
26 written notice informing the company of its status and

1 that it may become subject to divestment or shareholder
2 activism by the retirement systems.

3 (2) If, following the Illinois Investment Policy
4 Board's engagement pursuant to this subsection (e) with a
5 restricted company, that company ceases activity that
6 designates the company to be an Iran-restricted company, a
7 Sudan-restricted company, a company that boycotts Israel,
8 ~~or~~ an expatriated entity, or a for-profit company that
9 contracts to shelter migrant children, the company shall
10 be removed from the list of restricted companies and the
11 provisions of this Section shall cease to apply to it
12 unless it resumes such activities.

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

16 (1) The retirement system shall identify those
17 companies on the list of restricted companies in which the
18 retirement system owns direct holdings and indirect
19 holdings.

20 (2) The retirement system shall instruct its
21 investment advisors to sell, redeem, divest, or withdraw
22 all direct holdings of restricted companies from the
23 retirement system's assets under management in an orderly
24 and fiduciarily responsible manner within 12 months after
25 the company's most recent appearance on the list of
26 restricted companies.

1 (3) The retirement system may not acquire securities
2 of restricted companies.

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

15 (f-1) The retirement system shall adhere to the following
16 procedures for restricted companies that are expatriated
17 entities or for-profit companies that contract to shelter
18 migrant children:

19 (1) To the extent that the retirement system believes
20 that shareholder activism would be more impactful than
21 divestment, the retirement system shall have the authority
22 to engage with a restricted company prior to divesting.

23 (2) Subject to any applicable State or Federal laws,
24 methods of shareholder activism utilized by the retirement
25 system may include, but are not limited to, bringing
26 shareholder resolutions and proxy voting on shareholder

1 resolutions.

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

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

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

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

25 (i) The cost associated with the activities of the
26 Illinois Investment Policy Board shall be borne by the boards

1 of each pension fund or investment board created under Article
2 15, 16, or 22A of this Code.

3 (j) With respect to actions taken in compliance with this
4 Section, including all good-faith determinations regarding
5 companies as required by this Section, the retirement system
6 and Illinois Investment Policy Board are exempt from any
7 conflicting statutory or common law obligations, including any
8 fiduciary duties under this Article and any obligations with
9 respect to choice of asset managers, investment funds, or
10 investments for the retirement system's securities portfolios.

11 (k) It is not the intent of the General Assembly in
12 enacting this amendatory Act of the 99th General Assembly to
13 cause divestiture from any company based in the United States
14 of America. The Illinois Investment Policy Board shall
15 consider this intent when developing or reviewing the list of
16 restricted companies.

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

24 ~~(m) If any provision of Public Act 100-551 ~~this amendatory~~~~
25 ~~Act of the 100th General Assembly~~ or its application to any
26 person or circumstance is held invalid, the invalidity of that

1 provision or application does not affect other provisions or
2 applications of Public Act 100-551 ~~this amendatory Act of the~~
3 ~~100th General Assembly~~ that can be given effect without the
4 invalid provision or application.

5 If any provision of this amendatory Act of the 102nd
6 General Assembly or its application to any person or
7 circumstance is held invalid, the invalidity of that provision
8 or application does not affect other provisions or
9 applications of this amendatory Act of the 102nd General
10 Assembly that can be given effect without the invalid
11 provision or application.

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

13 (40 ILCS 5/1-110.17 new)

14 Sec. 1-110.17. Expiration of prohibited transactions. If,
15 at least 4 years after the effective date of an amendatory Act
16 that initially establishes a prohibited transaction under this
17 Article, the Illinois Investment Policy Board concludes that
18 divestment is no longer necessary due to achievement of the
19 underlying goals of the amendatory Act establishing the
20 prohibited transaction, changes in status surrounding the
21 prohibited transactions, or other verifiable reasons, the
22 Illinois Investment Policy Board may cease actions to require
23 divestment, identify restricted companies, or prohibit
24 transactions by a majority vote of the Illinois Investment
25 Policy Board if: (1) no less than one year prior to the change

1 in policy, the Illinois Investment Policy Board notifies, in
2 writing, the General Assembly of the change in policy and
3 lists the reasons for changing the policy; and (2) the General
4 Assembly does not, before the change in policy, adopt a House
5 Resolution or a Senate Resolution instructing the Illinois
6 Investment Policy Board to not change the policy.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".