



Rep. Jim Durkin

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10200HB4872ham001

LRB102 25631 RPS 37197 a

1 AMENDMENT TO HOUSE BILL 4872

2 AMENDMENT NO. _____. Amend House Bill 4872 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 as follows:

6 (40 ILCS 5/1-110.16)

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

12 (a) As used in this Section:

13 "Boycott Israel" means engaging in actions that are
14 politically motivated and are intended to penalize,
15 inflict economic harm on, or otherwise limit commercial
16 relations with the State of Israel or companies based in

1 the State of Israel or in territories controlled by the
2 State of Israel.

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

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

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

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

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

25 "Indirect holdings" in a company means all securities
26 of that company that are held in an account or fund, such

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

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

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

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

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 No later than 6 months after the effective date of this
22 amendatory Act of the 102nd General Assembly, the Illinois
23 Investment Policy Board shall make its best efforts to
24 identify all companies domiciled in Russia and include those
25 companies in the list of restricted companies distributed to
26 each retirement system. These efforts shall include the

1 following, as appropriate in the Illinois Investment Policy
2 Board's judgment:

3 (1) reviewing and relying on publicly available
4 information regarding companies domiciled in Russia,
5 including information provided by nonprofit organizations,
6 research firms, and government entities;

7 (2) contacting asset managers contracted by the
8 retirement systems that invest in companies domiciled in
9 Russia;

10 (3) contacting other institutional investors that have
11 divested from or engaged with companies domiciled in
12 Russia; and

13 (4) retaining an independent research firm to identify
14 companies domiciled in Russia.

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

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

23 (2) If, following the Illinois Investment Policy
24 Board's engagement pursuant to this subsection (e) with a
25 restricted company, that company ceases activity that
26 designates the company to be an Iran-restricted company, a

1 Sudan-restricted company, a company that boycotts Israel,
2 an expatriated entity, or a for-profit company that
3 contracts to shelter migrant children, the company shall
4 be removed from the list of restricted companies and the
5 provisions of this Section shall cease to apply to it
6 unless it resumes such activities.

7 (3) For a company domiciled in Russia, if, following
8 the Illinois Investment Policy Board's engagement pursuant
9 to this subsection (e), that company is no longer
10 domiciled in Russia, the company shall be removed from the
11 list of restricted companies and the provisions of this
12 Section shall cease to apply to it unless it becomes
13 domiciled in Russia.

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

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

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

1 restricted companies.

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

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

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

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

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

1 shareholder resolutions and proxy voting on shareholder
2 resolutions.

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

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

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

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

26 (i) The cost associated with the activities of the

1 Illinois Investment Policy Board shall be borne by the boards
2 of each pension fund or investment board created under Article
3 15, 16, or 22A of this Code.

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

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

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

25 If any provision of Public Act 100-551 or its application
26 to any person or circumstance is held invalid, the invalidity

1 of that provision or application does not affect other
2 provisions or applications of Public Act 100-551 that can be
3 given effect without the invalid provision or application.

4 If any provision of Public Act 102-118 ~~this amendatory Act~~
5 ~~of the 102nd General Assembly~~ or its application to any person
6 or circumstance is held invalid, the invalidity of that
7 provision or application does not affect other provisions or
8 applications of Public Act 102-118 ~~this amendatory Act of the~~
9 ~~102nd General Assembly~~ that can be given effect without the
10 invalid provision or application.

11 If any provision of this amendatory Act of the 102nd
12 General Assembly or its application to any person or
13 circumstance is held invalid, the invalidity of that provision
14 or application does not affect other provisions or
15 applications of this amendatory Act of the 102nd General
16 Assembly that can be given effect without the invalid
17 provision or application.

18 (Source: P.A. 102-118, eff. 7-23-21.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.".