



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2987

Introduced 1/20/2006, by Sen. Christine Radogno - Peter J. Roskam - Cheryl Axley - Kirk W. Dillard - John J. Millner

SYNOPSIS AS INTRODUCED:

New Act

40 ILCS 5/1-101.2
40 ILCS 5/1-101.4
40 ILCS 5/1-110 from Ch. 108 1/2, par. 1-110
40 ILCS 5/1-113.5
40 ILCS 5/1-113.12
40 ILCS 5/1-125 new
40 ILCS 5/1-130 new
40 ILCS 5/1-135 new
40 ILCS 5/1-140 new
40 ILCS 5/1A-113
40 ILCS 5/22A-108.1 from Ch. 108 1/2, par. 22A-108.1
40 ILCS 5/22A-111 from Ch. 108 1/2, par. 22A-111
40 ILCS 5/2-152 rep.
40 ILCS 5/2-155 rep.
40 ILCS 5/12-190.3 rep.
40 ILCS 5/13-806 rep.
40 ILCS 5/14-148 rep.
40 ILCS 5/15-186 rep.
40 ILCS 5/15-189 rep.
40 ILCS 5/16-191 rep.
40 ILCS 5/16-198 rep.
40 ILCS 5/18-159 rep.
40 ILCS 5/18-162 rep.
30 ILCS 805/8.30 new

Amends the Illinois Pension Code. Imposes various ethics requirements and prohibitions, and certain criminal penalties, with respect to employees, board members, fiduciaries, investment advisers, and investment consultants of pension funds, retirement systems, and the Illinois State Board of Investment. Preempts home rule with respect to investment adviser and consultant contracts. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 19177 JAM 54713 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning pensions.

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 1-101.2, 1-101.4, 1-110, 1-113.5, 1-113.12, 1A-113,
6 22A-108.1, and 22A-111 and by adding Sections 1-125, 1-130,
7 1-135, and 1-140 as follows:

8 (40 ILCS 5/1-101.2)

9 Sec. 1-101.2. Fiduciary. A person is a "fiduciary" with
10 respect to a pension fund or retirement system established
11 under this Code to the extent that the person:

12 (1) exercises any discretionary authority or
13 discretionary control respecting management of the pension
14 fund or retirement system, or exercises any authority or
15 control respecting management or disposition of its
16 assets;

17 (2) renders investment advice, or advice with respect
18 to the selection of other fiduciaries, for a fee or other
19 compensation, direct or indirect, with respect to any
20 moneys or other property of the pension fund or retirement
21 system, or has any authority or responsibility to do so; or

22 (3) has any discretionary authority or discretionary
23 responsibility in the administration of the pension fund or
24 retirement system.

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

26 (40 ILCS 5/1-101.4)

27 Sec. 1-101.4. Investment adviser. A person is an
28 "investment adviser", "investment advisor", or "investment
29 manager" with respect to a pension fund or retirement system
30 established under this Code if the ~~the~~ person:

31 (1) is a fiduciary appointed by the board of trustees

1 of the pension fund or retirement system in accordance with
2 Section 1-109.1;

3 (2) has the power to manage, acquire, or dispose of any
4 asset of the retirement system or pension fund;

5 (3) has acknowledged in writing that he or she is a
6 fiduciary with respect to the pension fund or retirement
7 system; and

8 (4) is at least one of the following: (i) registered as
9 an investment adviser under the federal Investment
10 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.); (ii)
11 registered as an investment adviser under the Illinois
12 Securities Law of 1953; (iii) a bank, as defined in the
13 Investment Advisers Act of 1940; or (iv) an insurance
14 company authorized to transact business in this State.

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

16 (40 ILCS 5/1-110) (from Ch. 108 1/2, par. 1-110)

17 Sec. 1-110. Prohibited Transactions.

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

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

27 (2) Lending of money or other extension of credit from
28 the retirement system or pension fund to a party in
29 interest without the receipt of adequate security and a
30 reasonable rate of interest, or from a party in interest to
31 a retirement system or pension fund with the provision of
32 excessive security or an unreasonably high rate of
33 interest.

34 (3) Furnishing of goods, services or facilities from
35 the retirement system or pension fund to a party in

1 interest for less than adequate consideration, or from a
2 party in interest to a retirement system or pension fund
3 for more than adequate consideration.

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

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

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

11 (2) In his individual or any other capacity act in any
12 transaction involving the retirement system or pension
13 fund on behalf of a party whose interests are adverse to
14 the interests of the retirement system or pension fund or
15 the interests of its participants or beneficiaries; or

16 (3) Receive any consideration for his own personal
17 account from any party dealing with the retirement system
18 or pension fund in connection with a transaction involving
19 the assets of the retirement system or pension fund.

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

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

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

28 (3) Serving as a trustee in addition to being an
29 officer, employee, agent or other representative of a party
30 in interest.

31 (d) A trustee or employee of a retirement system or pension
32 fund shall not knowingly cause or advise the retirement system
33 or pension fund to engage in an investment transaction when the
34 trustee or employee (i) has any direct interest in the income,
35 gains, or profits of the investment advisor through which the
36 investment transaction is made or (ii) has a business

1 relationship with that investment advisor that would result in
2 a pecuniary benefit to the trustee or employee as a result of
3 the investment transaction.

4 Whoever violates the provisions of this subsection (d) is
5 guilty of a Class 3 felony.

6 (Source: P.A. 88-535.)

7 (40 ILCS 5/1-113.5)

8 Sec. 1-113.5. Investment advisers; consultants; and
9 investment services.

10 (a) The board of trustees of a pension fund or retirement
11 system may appoint investment advisers as defined in Section
12 1-101.4. The board of any pension fund investing in common or
13 preferred stock under Section 1-113.4 shall appoint an
14 investment adviser before making such investments.

15 The investment adviser shall be a fiduciary, as defined in
16 Section 1-101.2, with respect to the pension fund or retirement
17 system and shall be one of the following:

18 (1) an investment adviser registered under the federal
19 Investment Advisers Act of 1940 and the Illinois Securities
20 Law of 1953;

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

23 (3) a life insurance company authorized to transact
24 business in Illinois; or

25 (4) an investment company as defined and registered
26 under the federal Investment Company Act of 1940 and
27 registered under the Illinois Securities Law of 1953.

28 (a-5) Notwithstanding any other provision of law, a person
29 or entity that provides consulting services (referred to as a
30 "consultant" in this Section) to a pension fund or retirement
31 system with respect to the selection of fiduciaries may not be
32 awarded a contract to provide those consulting services that is
33 more than 5 years in duration. No contract to provide such
34 consulting services may be renewed or extended. At the end of
35 the term of a contract, however, the contractor is eligible to

1 compete for a new contract as provided in subsection (a-10). No
2 pension fund, retirement system, or consultant shall attempt to
3 avoid or contravene the restrictions of this subsection by any
4 means.

5 (a-10) For the board of trustees of a pension fund or
6 retirement system created under Article 2, 14, 15, 16, or 18,
7 the selection and appointment of a consultant or investment
8 adviser, and the contracting for investment services from a
9 consultant or investment adviser, constitute procurements of
10 professional and artistic services under the Illinois
11 Procurement Code that must be made and awarded in accordance
12 with and through the use of the method of selection required by
13 Article 35 of that Code. For the board of trustees of a pension
14 fund or retirement system created under any other Article of
15 this Code, the selection and appointment of a consultant or
16 investment adviser, and the contracting for investment
17 services by a consultant or investment adviser, constitute
18 procurements that must be made and awarded in a manner
19 substantially similar to the method of selection required for
20 the procurement of professional and artistic services under
21 Article 35 of the Illinois Procurement Code. All offers from
22 responsive offerors shall be accompanied by disclosure of the
23 names and addresses of the following:

24 (1) The offeror.

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

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

29 (4) The offeror's key persons.

30 "Key persons" means any persons who (i) have an ownership
31 or distributive income share in the offeror that is in excess
32 of 5%, or an amount greater than 60% of the annual salary of
33 the Governor, or (ii) serve as executive officers of the
34 offeror.

35 Beginning on July 1, 2006, a person, other than a trustee
36 or an employee of a pension fund or retirement system, may not

1 act as a consultant under this Section unless that person is at
2 least one of the following: (i) registered as an investment
3 adviser under the federal Investment Advisers Act of 1940 (15
4 U.S.C. 80b-1, et seq.); (ii) registered as an investment
5 adviser under the Illinois Securities Law of 1953; (iii) a
6 bank, as defined in the Investment Advisers Act of 1940; or
7 (iv) an insurance company authorized to transact business in
8 this State.

9 (b) All investment advice and services provided by an
10 investment adviser or a consultant appointed under this Section
11 shall be (i) rendered pursuant to a written contract between
12 the investment adviser or consultant and the board, awarded as
13 provided in subsection (a-10), and (ii) 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 or consultant that he or she is a fiduciary with
18 respect to the pension fund or retirement system;

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 or consultant,
23 including reimbursement for expenses; and

24 (4) a requirement that the investment adviser or
25 consultant submit periodic written reports, on at least a
26 quarterly basis, for the board's review at its regularly
27 scheduled meetings. All returns on investment shall be
28 reported as net returns after payment of all fees,
29 commissions, and any other compensation.

30 (b-5) Each contract described in subsection (b) shall also
31 include (i) full disclosure of direct and indirect fees,
32 commissions, penalties, and other compensation, including
33 reimbursement for expenses, that may be paid by or on behalf of
34 the investment adviser or consultant in connection with the
35 provision of services to the pension fund or retirement system
36 and (ii) a requirement that the investment adviser or

1 consultant update the disclosure promptly after a modification
2 of those payments or an additional payment.

3 Within 30 days after the effective date of this amendatory
4 Act of the 94th General Assembly, each investment adviser and
5 consultant currently providing services or subject to an
6 existing contract for the provision of services must disclose
7 to the board of trustees all direct and indirect fees,
8 commissions, penalties, and other compensation paid by or on
9 behalf of the investment adviser or consultant in connection
10 with the provision of those services and shall update that
11 disclosure promptly after a modification of those payments or
12 an additional payment.

13 A person required to make a disclosure under subsection (d)
14 is also required to disclose direct and indirect fees,
15 commissions, penalties, or other compensation that shall or may
16 be paid by or on behalf of the person in connection with the
17 rendering of those services. The person shall update the
18 disclosure promptly after a modification of those payments or
19 an additional payment.

20 The disclosures required by this subsection shall be in
21 writing and shall include the date and amount of each payment
22 and the name and address of each recipient of a payment.

23 (c) Within 30 days after appointing an investment adviser
24 or consultant, the board shall submit a copy of the contract to
25 the Division ~~Department~~ of Insurance of the Department of
26 Financial and Professional Regulation.

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

34 (e) The board of trustees of each pension fund or
35 retirement system shall retain records of investment
36 transactions in accordance with the rules of the Department of

1 Financial and Professional Regulation Insurance.

2 (f) This subsection applies to the board of trustees of a
3 pension fund or retirement system created under Article 2, 14,
4 15, 16, or 18. Notwithstanding any other provision of law, a
5 board of trustees shall comply with the Business Enterprise for
6 Minorities, Females, and Persons with Disabilities Act. The
7 board of trustees shall post upon its website the percentage of
8 its contracts awarded under this Section currently and during
9 the preceding 5 fiscal years that were awarded to "minority
10 owned businesses", "female owned businesses", and "businesses
11 owned by a person with a disability", as those terms are
12 defined in the Business Enterprise for Minorities, Females, and
13 Persons with Disabilities Act.

14 (g) This Section is a denial and limitation of home rule
15 powers and functions in accordance with subsection (i) of
16 Section 6 of Article VII of the Illinois Constitution. A home
17 rule unit may not regulate investment adviser and consultant
18 contracts in a manner that is less restrictive than the
19 provisions of this Section.

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

21 (40 ILCS 5/1-113.12)

22 Sec. 1-113.12. Application. Sections 1-113.1 through
23 1-113.10 apply only to pension funds established under Article
24 3 or 4 of this Code, except that Section 1-113.5 applies to all
25 pension funds and retirement systems established under this
26 Code.

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

28 (40 ILCS 5/1-125 new)

29 Sec. 1-125. No monetary gain on investments. No trustee or
30 employee of the board of any retirement system or pension fund
31 or of the Illinois State Board of Investment shall have any
32 direct interest in the income, gains, or profits of any
33 investments made in behalf of the retirement system or pension
34 fund or of the Illinois State Board of Investment, nor receive

1 any pay or emolument for services in connection with any
2 investment. No trustee or employee of the board of any
3 retirement system or pension fund or the Illinois State Board
4 of Investment shall become an endorser or surety, or in any
5 manner an obligor for money loaned or borrowed from the
6 retirement system or pension fund or the Illinois State Board
7 of Investment. Whoever violates any of the provisions of this
8 Section is guilty of a Class 3 felony.

9 (40 ILCS 5/1-130 new)

10 Sec. 1-130. Fraud. Any person who knowingly makes any false
11 statement, or falsifies or permits to be falsified any record
12 of a retirement system or pension fund or of the Illinois State
13 Board of Investment, in an attempt to defraud the retirement
14 system or pension fund or the Illinois State Board of
15 Investment, is guilty of a Class 3 felony.

16 (40 ILCS 5/1-135 new)

17 Sec. 1-135. Prohibition on gifts.

18 (a) For the purposes of this Section:

19 (1) "Board" means (i) the board of trustees of a
20 pension fund or retirement system created under this Code
21 or (ii) the Illinois State Board of Investment created
22 under Article 22A of this Code.

23 (2) "Gift" means a gift as defined in Section 1-5 of
24 the State Officials and Employees Ethics Act.

25 (3) "Prohibited source" is a person or entity who:

26 (i) is seeking official action (A) by the board,
27 (B) by a board member, or (C) in the case of a board
28 employee, by the employee, the board, a board member,
29 or another employee directing the employee;

30 (ii) does business or seeks to do business (A) with
31 the board, (B) with a board member, or (C) in the case
32 of a board employee, with the employee, the board, a
33 board member, or another employee directing the
34 employee;

1 (iii) has interests that may be substantially
2 affected by the performance or non-performance of the
3 official duties of the board member or employee; or

4 (iv) is registered or required to be registered
5 with the Secretary of State under the Lobbyist
6 Registration Act, except that an entity not otherwise a
7 prohibited source does not become a prohibited source
8 merely because a registered lobbyist is one of its
9 members or serves on its board of directors.

10 (b) No board member or employee shall solicit or accept any
11 gift from a prohibited source or from an officer, agent, or
12 employee of a prohibited source. No prohibited source or
13 officer, agent, or employee of a prohibited source shall offer
14 to a board member or employee any gift.

15 (c) Violation of this Section is a Class A misdemeanor.

16 (40 ILCS 5/1-140 new)

17 Sec. 1-140. Contingent fees.

18 (a) The Illinois State Board of Investment and the board of
19 trustees of a retirement system or pension fund created under
20 any Article of this Code shall not, in connection with the
21 allocation of retirement assets for investment purposes,
22 contract with any investment adviser as defined in Section
23 1-101.4 unless that investment adviser certifies that the
24 investment adviser has not and will not pay a contingent fee,
25 whether directly or indirectly, to a third party for having
26 promoted the selection of an investment adviser for that
27 contract or any contract entered into after the effective date
28 of this amendatory Act of the 94th General Assembly. In the
29 event that the Illinois State Board of Investment or the board
30 of trustees determines that an investment adviser has filed a
31 false certification with respect to the payment of contingent
32 fees, the Illinois State Board of Investment or the board of
33 trustees, as the case may be, shall not contract with that
34 investment adviser or any entity that employs any person who
35 signed false certifications, for a period of 5 calendar years,

1 beginning with the date the determination is made. The
2 retirement assets placed under the direction, guidance,
3 placement, or control of an investment adviser who has been
4 found in violation pursuant to this Section shall be
5 reallocated at the discretion of the Illinois State Board of
6 Investment or the board of trustees of that pension fund or
7 retirement system, as appropriate.

8 (b) The Illinois State Board of Investment and the board of
9 trustees shall not allocate any assets of a retirement system
10 or pension fund to an investment unless it is assured by all
11 parties involved in the transaction that a contingent fee was
12 not or will not be paid based on the allocation of the pension
13 fund's or retirement system's assets to that investment.

14 (40 ILCS 5/1A-113)

15 Sec. 1A-113. Penalties.

16 (a) A pension fund that fails, without just cause, to file
17 its annual statement within the time prescribed under Section
18 1A-109 shall pay to the Department a penalty to be determined
19 by the Department, which shall not exceed \$100 for each day's
20 delay.

21 (b) A pension fund that fails, without just cause, to file
22 its actuarial statement within the time prescribed under
23 Section 1A-110 or 1A-111 shall pay to the Department a penalty
24 to be determined by the Department, which shall not exceed \$100
25 for each day's delay.

26 (c) A pension fund that fails to pay a fee within the time
27 prescribed under Section 1A-112 shall pay to the Department a
28 penalty of 5% of the amount of the fee for each month or part of
29 a month that the fee is late. The entire penalty shall not
30 exceed 25% of the fee due.

31 (d) This subsection applies to any governmental unit, as
32 defined in Section 1A-102, that is subject to any law
33 establishing a pension fund or retirement system for the
34 benefit of employees of the governmental unit.

35 Whenever the Division determines by examination,

1 investigation, or in any other manner that the governing body
2 or any elected or appointed officer or official of a
3 governmental unit has failed to comply with any provision of
4 that law:

5 (1) The Director shall notify in writing the governing
6 body, officer, or official of the specific provision or
7 provisions of the law with which the person has failed to
8 comply.

9 (2) Upon receipt of the notice, the person notified
10 shall take immediate steps to comply with the provisions of
11 law specified in the notice.

12 (3) If the person notified fails to comply within a
13 reasonable time after receiving the notice, the Director
14 may hold a hearing at which the person notified may show
15 cause for noncompliance with the law.

16 (4) If upon hearing the Director determines that good
17 and sufficient cause for noncompliance has not been shown,
18 the Director may order the person to submit evidence of
19 compliance within a specified period of not less than 30
20 days.

21 (5) If evidence of compliance has not been submitted to
22 the Director within the period of time prescribed in the
23 order and no administrative appeal from the order has been
24 initiated, the Director may assess a civil penalty of up to
25 \$2,000 against the governing body, officer, or official for
26 each noncompliance with an order of the Director.

27 The Director shall develop by rule, with as much
28 specificity as practicable, the standards and criteria to be
29 used in assessing penalties and their amounts. The standards
30 and criteria shall include, but need not be limited to,
31 consideration of evidence of efforts made in good faith to
32 comply with applicable legal requirements. This rulemaking is
33 subject to the provisions of the Illinois Administrative
34 Procedure Act.

35 If a penalty is not paid within 30 days of the date of
36 assessment, the Director without further notice shall report

1 the act of noncompliance to the Attorney General of this State.
2 It shall be the duty of the Attorney General or, if the
3 Attorney General so designates, the State's Attorney of the
4 county in which the governmental unit is located to apply
5 promptly by complaint on relation of the Director of Insurance
6 in the name of the people of the State of Illinois, as
7 plaintiff, to the circuit court of the county in which the
8 governmental unit is located for enforcement of the penalty
9 prescribed in this subsection or for such additional relief as
10 the nature of the case and the interest of the employees of the
11 governmental unit or the public may require.

12 (e) Whoever knowingly makes a false certificate, entry, or
13 memorandum upon any of the books or papers pertaining to any
14 pension fund or upon any statement, report, or exhibit filed or
15 offered for file with the Division or the Director of Insurance
16 in the course of any examination, inquiry, or investigation,
17 with intent to deceive the Director, the Division, or any of
18 its employees is guilty of a Class 3 felony ~~A misdemeanor~~.

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

20 (40 ILCS 5/22A-108.1) (from Ch. 108 1/2, par. 22A-108.1)

21 Sec. 22A-108.1. Investment Advisor: Any person or business
22 entity which provides investment advice to the ~~the~~ Board on a
23 personalized basis and with an understanding of the policies
24 and goals of the Board. "Investment Advisor" shall not include
25 any person or business entity which provides statistical or
26 general market research data available for purchase or use by
27 others.

28 (Source: P.A. 79-1171.)

29 (40 ILCS 5/22A-111) (from Ch. 108 1/2, par. 22A-111)

30 Sec. 22A-111. Duties and responsibilities.

31 (a) The Board shall manage the investments of any pension
32 fund, retirement system or education fund for the purpose of
33 obtaining a total return on investments for the long term. It
34 also shall perform such other functions as may be assigned or

1 directed by the General Assembly.

2 (b) The authority of the board to manage pension fund
3 investments and the liability shall begin when there has been a
4 physical transfer of the pension fund investments to the board
5 and placed in the custody of the State Treasurer.

6 (c) The authority of the board to manage monies from the
7 education fund for investment and the liability of the board
8 shall begin when there has been a physical transfer of
9 education fund investments to the board and placed in the
10 custody of the State Treasurer.

11 (d) The board may not delegate its management functions but
12 it may arrange to compensate for personalized investment
13 advisory service for any or all investments under its control,
14 with any national or state bank or trust company authorized to
15 do a trust business and domiciled in Illinois, or other
16 financial institution organized under the laws of Illinois, or
17 an investment advisor who is qualified under Federal Investment
18 Advisors Act of 1940 and is registered under the Illinois
19 Securities Law of 1953. Nothing contained herein shall prevent
20 the Board from subscribing to general investment research
21 services available for purchase or use by others. The Board
22 shall also have the authority to compensate for accounting
23 services.

24 (e) Notwithstanding any other provision of law, a person or
25 entity that provides consulting services (referred to as a
26 "consultant" in this Section) to the board with respect to the
27 selection of fiduciaries may not be awarded a contract to
28 provide those consulting services that is more than 5 years in
29 duration. No contract to provide such consulting services may
30 be renewed or extended. At the end of the term of a contract,
31 however, the contractor is eligible to compete for a new
32 contract as provided in subsection (f). Neither the board nor a
33 consultant shall attempt to avoid or contravene the
34 restrictions of this subsection by any means.

35 (f) The selection of a consultant or investment adviser,
36 and the contracting for investment services from a consultant

1 or investment adviser, constitute procurements of professional
2 and artistic services under the Illinois Procurement Code that
3 must be made and awarded in accordance with and through the use
4 of the method of selection required by Article 35 of that Code.
5 All offers from responsive offerors shall be accompanied by
6 disclosure of the names and addresses of the following:

7 (1) The offeror.

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

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

12 (4) The offeror's key persons.

13 "Key persons" means any persons who (i) have an ownership
14 or distributive income share in the offeror that is in excess
15 of 5%, or an amount greater than 60% of the annual salary of
16 the Governor, or (ii) serve as executive officers of the
17 offeror.

18 Beginning on July 1, 2006, a person, other than a trustee
19 or an employee of a the board, may not act as a consultant
20 under this Section unless that person is at least one of the
21 following: (i) registered as an investment adviser under the
22 federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1, et
23 seq.); (ii) registered as an investment adviser under the
24 Illinois Securities Law of 1953; (iii) a bank, as defined in
25 the Investment Advisers Act of 1940; or (iv) an insurance
26 company authorized to transact business in this State.

27 In addition to any other requirement, each contract between
28 the Board and an investment advisor or consultant shall include
29 (i) full disclosure of direct and indirect fees, commissions,
30 penalties, and other compensation, including reimbursement for
31 expenses, that may be paid by or on behalf of the investment
32 advisor or consultant in connection with the provision of
33 services to the pension fund or retirement system and (ii) a
34 requirement that the investment advisor or consultant update
35 the disclosure promptly after a modification of those payments
36 or an additional payment.

1 Within 30 days after the effective date of this amendatory
2 Act of the 94th General Assembly, each investment advisor and
3 consultant currently providing services or subject to an
4 existing contract for the provision of services must disclose
5 to the Board all direct and indirect fees, commissions,
6 penalties, and other compensation paid by or on behalf of the
7 investment advisor or consultant in connection with the
8 provision of those services and shall update that disclosure
9 promptly after a modification of those payments or an
10 additional payment.

11 The disclosures required by this subsection shall be in
12 writing and shall include the date and amount of each payment
13 and the name and address of each recipient of a payment.

14 Notwithstanding any other provision of law, the Board shall
15 comply with the Business Enterprise for Minorities, Females,
16 and Persons with Disabilities Act. The Board shall post upon
17 its website the percentage of its contracts awarded under this
18 subsection currently and during the preceding 5 fiscal years
19 that were awarded to "minority owned businesses", "female owned
20 businesses", and "businesses owned by a person with a
21 disability", as those terms are defined in the Business
22 Enterprise for Minorities, Females, and Persons with
23 Disabilities Act.

24 (Source: P.A. 84-1127.)

25 (40 ILCS 5/2-152 rep.)

26 (40 ILCS 5/2-155 rep.)

27 (40 ILCS 5/12-190.3 rep.)

28 (40 ILCS 5/13-806 rep.)

29 (40 ILCS 5/14-148 rep.)

30 (40 ILCS 5/15-186 rep.)

31 (40 ILCS 5/15-189 rep.)

32 (40 ILCS 5/16-191 rep.)

33 (40 ILCS 5/16-198 rep.)

34 (40 ILCS 5/18-159 rep.)

35 (40 ILCS 5/18-162 rep.)

1 Section 40. The Illinois Pension Code is amended by
2 repealing Sections 2-152, 2-155, 12-190.3, 13-806, 14-148,
3 15-186, 15-189, 16-191, 16-198, 18-159, and 18-162.

4 Section 90. The State Mandates Act is amended by adding
5 Section 8.30 as follows:

6 (30 ILCS 805/8.30 new)

7 Sec. 8.30. Exempt mandate. Notwithstanding Sections 6 and 8
8 of this Act, no reimbursement by the State is required for the
9 implementation of any mandate created by this amendatory Act of
10 the 94th General Assembly.

11 Section 98. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.